

**CERTIFIED
TRANSCRIPT**

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BEFORE THE POLICE BOARD
OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES)Case No:
FILED AGAINST)17PB2940
POLICE OFFICER BRANDON TERNAND.)

REPORT OF THE VIDEOTAPED PROCEEDINGS

had at the hearing in the above-entitled matter
before Ms. Allison Wood, Hearing Officer, at 30
North LaSalle Street, Suite 1240, Chicago,
Illinois, on May 11th, 2018, at the hour of
10:00 a.m.

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APPEARANCES:

CITY OF CHICAGO
DEPARTMENT OF LAW
BY: MR. JAMES FIEWEGER and
MS. SARA WHALEY
Special Assistant Corporation Counsel
30 North LaSalle Street
Suite 1020
Chicago, Illinois 60602,

on behalf of the Superintendent;

MR. JAMES THOMPSON and
MR. TIMOTHY GRACE,

On behalf of Respondent;

POLICE BOARD OF THE CITY OF CHICAGO
MR. MAX CAPRONI

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1 HEARING OFFICER WOOD: Good morning. This
2 is the matter of charges filed against Police
3 Officer Brandon Ternand. The case number is 17
4 BP 2940. I'm Allison Wood, the hearing
5 officer.

6 I'm going to ask all the parties
7 to identify themselves for the record,
8 beginning with the Superintendent.

9 MR. FIEWEGER: Jim Fieweger,
10 F-I-E-W-E-G-E-R, for the Superintendent.

11 MS. WHALEY: And Sara Whaley, W-H-A-L-E-Y,
12 for the Superintendent.

13 MR. THOMPSON: James Thompson,
14 T-H-O-M-P-S-O-N, on behalf of Officer Brandon
15 Ternand.

16 MR. GRACE: My name is Tim, T-I-M, Grace,
17 G-R-A-C-E, on behalf of the Respondent, Officer
18 Ternand.

19 HEARING OFFICER WOOD: Is Officer Ternand
20 in attendance? State your name.

21 MR. TERNAND: Brandon Ternand.
22 T-E-R-N-A-N-D.

23 HEARING OFFICER WOOD: Thank you. I want
24 to acknowledge that there is a pending motion

1 in limine filed by the Superintendent in
2 relation to admissibility of a call by Cherise
3 Jackson, 911 call, and the Respondent did file
4 a response. So I want to give each party the
5 opportunity to briefly state their argument,
6 and then I will make a ruling.

7 MR. FIEWEGER: Certainly, your Honor. As
8 we stated in our motion, we believe that the
9 contents of the 911 call are admissible as an
10 excited utterance exception to the hearsay
11 rule.

12 An excited utterance isn't
13 necessarily determined by any particular time
14 frame, it is determined by whether or not the
15 speaker is under the influence or still under
16 the effect of the excited event.

17 So an exciting event such as this
18 one where the witness saw a police chase and
19 reported a shooting of an individual is
20 certainly not an everyday occurrence, it's
21 something that's very stunning to somebody who
22 observes it out of the blue; therefore, the
23 idea that a two-minute time lapse would be
24 enough to dissipate the excited nature of the

1 event, I don't think that's consistent at all
2 with the facts. And if you have an opportunity
3 to listen to the call, itself, she sounds
4 excited.

5 So I think it squarely falls
6 within the excited utterance exception of the
7 hearsay.

8 HEARING OFFICER WOOD: Thank you.

9 MR. THOMPSON: Thank you, Counsel.
10 Historically up to the present, hearsay
11 statements are not admissible in trials or in
12 this case hearings. And the admittance of
13 hearsay statements without foundation
14 historically has been frowned upon by the
15 courts; however, they have created certain
16 exceptions to hearsay where hearsay statements
17 can be admitted into the case; however, those
18 exceptions are very narrow, and they are very
19 limited, and they are exceptional.
20 Particularly excited utterances, those types of
21 hearsay exceptions, are the most limited and
22 the most narrow. We stand by what we presented
23 to the court in our briefs. Importantly, the
24 effort to introduce that statement or

1 statements by Cherise Jackson as a material
2 piece of evidence in this case invokes Officer
3 Ternand's right to confrontation and
4 cross-examination of the witness providing
5 those statements.

6 If she is not here, it's a
7 violation of Officer Ternand's rights. But if
8 you look specifically that what's being
9 attempted to be introduced, the significant is
10 if it's a narrative, if it's a statement after
11 an event has occurred, it has the opportunity
12 to consider, reflect and make a statement.
13 That is clearly not an excited utterance.

14 More importantly, Ms. Cherise
15 Jackson was not the subject of any type of
16 dangerous event. She was merely a witness
17 which falls clearly in to a narrative. And, of
18 course, as we set forth, do not consider that
19 to be an excited utterance. And for those
20 reasons and the other reasons we set forth in
21 our brief, we ask that that motion in limine to
22 allow that statement in under an excited
23 utterance exception or any other exception be
24 denied.

1 MR. FIEWEGER: Your Honor, if I could
2 address one issue with respect to the
3 cross-examination.

4 HEARING OFFICER WOOD: Yes.

5 MR. FIEWEGER: As we had indicated at the
6 prehearing, we have served a subpoena on
7 Cherise Jackson. We had the subpoena
8 returnable for today. We talked with her three
9 times. Each time we've talked with her, she's
10 indicated that she is not willing to comply
11 with the subpoena. So although we have a valid
12 subpoena serving her to show up today, and if
13 she shows up today we can certainly proceed,
14 but I don't expect her to comply with the
15 subpoena.

16 In that event, either party is
17 entitled to file an action with the civil court
18 to enforce the subpoena. So if Officer
19 Ternand's counsel feels the need to
20 cross-examine Ms. Jackson, he has that
21 opportunity, because there is a valid subpoena
22 on her that can be enforced

23 MR. THOMPSON: If I could just mention
24 something. The reliability of what's contained

1 in that statement is highly problematic and
2 uncertain.

3 And Ms. Jackson's defiance of a
4 lawful subpoena here is just another indicator
5 of the unreliability of the statements that she
6 made. And if she does appear on the subpoena,
7 we're prepared to present all of that to the
8 court.

9 HEARING OFFICER WOOD: Okay. Thank you
10 both. I appreciated the opportunity for the
11 written submissions, and I also wanted to hear
12 from you.

13 I will say that my biggest
14 concern is, as Respondent's counsel pointed
15 out, the reliability. The fact that Ms.
16 Jackson doesn't state her name on the call,
17 there's really no way to have a foundation
18 without her here.

19 I understand the challenges in
20 terms of whether or not she is going to appear
21 or respond to the subpoena is a challenge, but
22 I do think the Respondent has a right to
23 cross-examine her, and I am not prepared to
24 deny them right to do that.

1 So the motion in limine will be
2 denied, with the direction that you can go
3 forward with the 911 call, and that witness --
4 if Ms. Jackson is available for the Respondent
5 to cross-examine.

6 MR. FIEWEGER: Okay. My understanding how
7 I expect this to work, I do not expect her to
8 comply with the subpoena today. In that case,
9 we're going to ask for a continuance in order
10 to take action to move in the Circuit Court to
11 get an order bringing her in. And we'll assess
12 that as the case proceeds.

13 Things are always fluid. If we
14 elected that we decide we don't need the 911
15 call, we can proceed without that.

16 But at this point, I'd just like
17 to be clear on the record, we are reserving our
18 right to put that 911 call in through Ms.
19 Jackson.

20 We have a subpoena on her. In
21 order for us to do that, I expect to have to
22 file an action in the Circuit Court.

23 HEARING OFFICER WOOD: And I gave you that
24 right. I am not precluding you from doing

1 that.

2 Any questions about the order?

3 MR. THOMPSON: No.

4 HEARING OFFICER WOOD: Are we're ready to
5 proceed --

6 MR. FIEWEGER: Yes.

7 HEARING OFFICER WOOD: -- to opening? You
8 may proceed.

9 MS. WHALEY: Good morning, Madam Hearing
10 Officer and members of the Police Board. This
11 is a case of Officer Brandon Ternand's use of
12 unreasonable deadly force in discharging his
13 weapon and killing 15-year-old Dakota Bright.
14 A single shot to the back of a teenage boy's
15 head, that's why we are here today.

16 On November 8th, 2012, Officer
17 Ternand embarked on a risky pursuit of a young
18 teenage boy, Dakota Bright, through the
19 backyards of unfamiliar residences.

20 Officer Ternand abandoned his
21 partner and fellow officers that he had been
22 patrolling with to pursue Dakota on foot.

23 Dakota quickly maneuvered over
24 the four chain-link fences while Officer

1 Ternand only jumped over the initial fence
2 before approaching the second, a six-foot
3 fence.

4 At the six-foot fence, Officer
5 Ternand was positioned in between a large tree
6 and barbecue with his gun unholstered.

7 Officer Ternand claims that
8 Dakota reached towards his left waistband, as
9 he had done multiple times throughout the
10 pursuit, and began to make a turning motion.
11 Officer Ternand's response, one shot, square in
12 the back of the head.

13 Was Officer Ternand's response to
14 Dakota's movements objectively reasonable given
15 the circumstances of the pursuit? We believe
16 that the evidence will demonstrate that his
17 response was not reasonable.

18 On November 8th, 2012, Officer
19 Ternand was working with his partner, Officer
20 Razo, as well as two other officers, Officer
21 Sledge and Bruno. The shooting, itself,
22 happened in the backyards of residences in the
23 6700 block of South Indiana Avenue.

24 The backyards of these residences

1 are separated by chain-link fences ranging in
2 height between four to six feet.

3 Only Dakota Bright and Officer
4 Ternand were in the backyards of the Indiana
5 Avenue residences at the time of the fatal
6 shooting.

7 Prior to the shooting, Officers
8 Ternand, Razo, Bruno and Sledge were responding
9 to a call of burglary in progress at 6706
10 Prairie Avenue. After determining the call to
11 be unfounded, the officers drove away from the
12 call, proceeding down this alley, heading
13 westbound from Prairie Avenue towards Indiana
14 Avenue.

15 Officer Razo drove with Officer
16 Ternand in one vehicle while Officer Sledge and
17 Officer Bruno drove directly behind them in a
18 separate vehicle.

19 Officer Ternand and Razo while
20 driving observed an individual now known to be
21 Dakota Bright take one step into the mouth of
22 the alley with an object in his hand. Officers
23 Ternand and Razo will say they believed this
24 object to be a handgun.

1 Officer Bruno and Sledge never saw
2 Dakota with a gun. Although a gun was later
3 recovered close to the early stages of the
4 pursuit path, Dakota did not possess a weapon
5 while being chased by Officer Ternand on foot.
6 Dakota Bright upon spotting the officers turned
7 away from them, exited the alley and began to
8 flee northbound on Indiana.

9 Officers Razo and Ternand began to
10 pursue Dakota in their vehicle continuing
11 westbound in the alley until they reached
12 Indiana Avenue.

13 When Officers Ternand and Razo
14 turned on Indiana, they saw Dakota running full
15 speed holding his left side.

16 At this point, Officer Razo got on
17 the radio to give a description of the
18 individual they were pursuing, describing that
19 he was holding his side, left side. And to
20 state that the individual was circling back
21 towards Officer Bruno and Sledge who remained in
22 the initial alley.

23 The evidence will demonstrate that
24 these were the only radio communications by any

1 of the officers during the pursuit of Dakota.

2 Officers Ternand and Razo continued
3 to chase Dakota as he turned on to Marquette,
4 proceeding eastbound until he reached a vacant
5 lot on Marquette.

6 After Dakota again changed his
7 direction to head south through the vacant lot,
8 Officer Ternand exited the vehicle and began to
9 chase Dakota on foot.

10 Officer Razo remained in the
11 vehicle continuing to drive on Marquette before
12 turning on Prairie Avenue.

13 Officer Ternand followed Dakota
14 through a vacant lot by himself. Upon
15 reentering in the alley and before entering the
16 backyard of 6715 Indiana, he crossed paths with
17 Officer Bruno, also proceeding on foot, who had
18 already separated from his partner, Officer
19 Sledge.

20 Both officers will state that as
21 they crossed paths, Officer Ternand shouted, "He
22 has a gun."

23 Officer Ternand and Officer Bruno
24 then split off to undertake the apprehension of

1 Dakota on their own. Officer Ternand chose to
2 chase Dakota through the backyards replete with
3 barriers such as the chain-link fences, while
4 Officer Bruno chose to run down the alley
5 paralleling the backyards that Dakota and
6 Officer Ternand were running through.

7 Neither decision was communicated
8 to their partners over the radio. Dakota
9 continued to elude Officer Ternand as he quickly
10 maneuvered the fences separating the backyards
11 on the 6700 block of Indiana. He jumped over
12 one four-foot fence, scaled a six-foot fence and
13 jumped over two more four-foot fences.

14 Officer Ternand tried to catch up
15 to Dakota to apprehend him, but by the time
16 Dakota jumped over the fourth fence, Officer
17 Ternand only had successfully climbed over the
18 first four-foot fence and was near the six-foot
19 fence, placing Officer Ternand approximately 50
20 feet behind Dakota Bright and separated by three
21 chain-link fences with no sense of the location
22 of its fellow officers.

23 At this point, Officer Ternand was
24 positioned between a large tree and barbecue

1 directly behind a six-foot fence with his gun
2 unholstered, aimed at the escaping Dakota
3 Bright. Dakota got up off the ground after
4 jumping over the fourth fence when Officer
5 Ternand claims he observed Dakota, quote,
6 "Reaching towards his left waistband," and that
7 upon allegedly seeing Dakota began to turn
8 towards him, he fired a single fatal shot.

9 The undisputed evidence will show
10 that Dakota died from the single shot entering
11 the center of his head, the bullet traveling
12 straight from the back to the front.

13 That, members of the Police Board,
14 is what we expect the evidence to show. It will
15 prove that on November 8th, 2012, Officer
16 Ternand used excessive and unreasonable force
17 when he fired a single shot during the pursuit
18 of a young Dakota Bright.

19 The evidence will demonstrate that
20 Dakota periodically reached for his waistband
21 and looked back towards Officer Ternand
22 throughout the pursuit. But it was only after
23 Bright had negotiated a fourth fence, and
24 Officer Ternand was facing a six-foot barrier

1 that according to Ternand, he stopped, reached
2 for his waistband and subsequent turn became a
3 reason to use deadly force.

4 The evidence will demonstrate that
5 Dakota was not turning towards Officer Ternand
6 when he decided to discharge his weapon;
7 however, even if Dakota did make a turning
8 motion towards Officer Ternand, the evidence
9 will show that any such movements were not
10 sufficient to justify the use of deadly force,
11 especially considering the other tactical
12 options available to Officer Ternand at the time
13 he discharged his weapon, killing Dakota Bright.

14 Based on this evidence, we will ask
15 you to uphold the charges discharging Officer
16 Brandon Ternand, star number 2717, from the
17 Chicago Police Department. Thank you.

18 HEARING OFFICER WOOD: Hank you. Counsel.

19 MR. GRACE: Ladies and gentlemen of the
20 Police Board, Madam Hearing Officer, my name is
21 Tim Grace. The gentleman sitting to my left is
22 my law partner, Jim Thompson. The guy behind
23 me is Officer Brandon Ternand. We've been
24 given the task of representing

1 Mr. Ternand -- Officer Ternand in this
2 proceeding.

3 The question we have before us
4 today is why are we here? We're here because
5 those guys over there, they represent the City
6 of Chicago, and their client, the City, wants
7 to fire Brandon. The City has brought charges
8 against Brandon claiming, one, he was involved
9 in an unjustified shooting; and B, his actions
10 have brought discredit upon the police
11 department.

12 They bring these charges, but
13 they failed to bring a case that would actually
14 justify termination.

15 The City fails to recognize your
16 role, Police Board, members of the Police Board.
17 Your role is to process -- to render a
18 fair-and-just decision that's based upon the
19 facts. You, members of the Police Board, have
20 an unbelievable burden here today. Your task is
21 to seek the truth and find justice. The search
22 for justice is not going to be easy. She is
23 going to hide, and she will hide every day she
24 can. But the citizens of our City believe in

1 your sense of fairness and in right and wrong.

2 The lawyers in this room believe in
3 your ability to hunt down the truth, and most
4 importantly Officer Brandon Ternand is counting
5 on you to render a fair and considered decision.

6 Let me tell you why we're not here.
7 We're not here because Brandon violated any
8 general order of the Chicago Police Department.

9 We're not here because our
10 Superintendent of Police or any boss or any
11 supervisor of the Chicago Police Department
12 believes that Brandon did anything wrong, but
13 rather acted with the highest level of valor
14 that the Department aspires of its members.

15 In fact, not only did the powers
16 that be deem his actions on November 8th, 2012,
17 to be reasonable, they actually gave him a
18 departmental commendation for the very action by
19 which they tried to terminate him today.

20 Think about that. The Department
21 honors his actions, and those people over there
22 want to fire him for it.

23 You will hear from an active
24 commander of the 11th District who will tell you

1 in over 30 plus years of being a Chicago police
2 officer, Brandon is one of the best officers he
3 has ever supervised.

4 We're here not because of what the
5 leaders of our police officers think. They
6 think he is a hero. We are here because the
7 City simply doesn't get it. They don't
8 understand, either through ignorance or desired
9 indifference, what goes on in our most dangerous
10 neighborhoods in the City. And most
11 importantly, they have no clue how to help the
12 police to make our City a better place to live
13 for its citizens, but we know you, members of
14 the Chicago Police Board, you get it. And
15 that's why you sit where you sit.

16 On November 8th, 2012, Brandon was
17 working the 3rd District. He's working as a
18 tactical officer. This is the south side. This
19 is one of the most gang-infested violence-ridden
20 areas of our City. The place where citizens
21 live in constant danger and fear of what lurks
22 in the shadows and alleyways.

23 It is a different world that seems
24 a thousand miles away, but is a mere seven miles

1 from where we sit here today.

2 Brandon and other officers will
3 testify today of the amazing danger that the
4 officers and the citizens encounter every day,
5 shootings, guns, drugs, robberies and homicides,
6 are sadly not the exception, but the ordinary.

7 Brandon will tell you that they
8 patrol at a heightened state constantly; that
9 they are shot at, placed in extraordinary
10 situations each and every week, each and every
11 day and each and every tour.

12 We have failed the citizens of the
13 3rd District. And the only pressure resisting
14 this onslaught are the Chicago police officers
15 like Brandon.

16 This is not Lincoln Park. This is
17 not Beverly. This is the 3rd District. Over 40
18 homicides a year. 40. That's almost four a
19 month. That's almost one a week.

20 On that day Brandon was on patrol,
21 the passenger of an unmarked vehicle driven by
22 his partner, Victor Razo, driving westbound down
23 the alley as it approached the intersection of
24 Indiana. It was clear that day, about 2:33 in

1 the afternoon.

2 There was a tactical team directly
3 trailing behind them with tactical Officers
4 Bruno and Sledge.

5 As they approached the mouth of the
6 alley, Dakota Bright entered it. They were
7 facing each other. Dakota was dressed in red.
8 Why red? Red is the color of the DOD street
9 gang, a vicious, violent street gang that
10 plagued that area. Dakota also had in his right
11 hand a pistol. Not a small gun but a large
12 four-inch barrel gun.

13 He did not have it tucked in his
14 pocket. He made no effort to conceal it. He
15 was out, and he was out there hunting.

16 Dakota makes eye contact with
17 Brandon and his partner Razo. Dakota knows he's
18 cooked. He sees the unmarked Chicago Police
19 squad car with its M plates and its lights, and
20 he knows they've got him. This is a
21 non-probational class four felony, and he is
22 going to jail.

23 He turns, he tucks the gun into the
24 left side of his pants, exits the alley and

1 proceeds north on Indiana to make a right on
2 Marquette.

3 Brandon and his team lose sight of
4 him at this point. They race to the mouth of
5 the alley and see him sprinting towards
6 Marquette.

7 Officer Razo immediately goes over
8 the air, "Man in red running north on Indiana
9 holding his left side." Holding his left side.
10 This is significant, because in CPD speak, any
11 street cop knows that holding your left side
12 means he's got a gun. You'll hear this on the
13 dispatch tape. You will hear the dispatcher
14 broadcast this throughout the district. The
15 dispatcher gets it. She knows what holding his
16 left side means. It means he has a gun, and she
17 states when she broadcasts that, use caution.

18 Dakota continues eastbound on
19 Marquette and doubling back through a vacant
20 lot, still favoring that left side. Brandon can
21 see him doing this.

22 Brandon is let off at the mouth of
23 the vacant lot and pursues. Razo continues to
24 drive and parallels Dakota's flight southbound.

1 The second tact team waits south of the
2 location. They know he is coming his way,
3 because Brandon broadcasts this. Brandon is
4 chasing him south through the yard. Dakota is
5 not stopping. He is trying to escape. He does
6 not stop. He jumps fences, but most
7 importantly, he continues to favor that left
8 side. He is ignoring verbal commands. He is
9 simply trying to escape the police.

10 He runs by a stunned and stationary
11 Officer Bruno. And when Brandon runs by him,
12 what does Brandon say? Brandon says, "He's got
13 a gun."

14 So here we are at the mouth of
15 the alley. Brandon is articulating he's got a
16 gun.

17 This is where the rubber hits the
18 road. Now is where we need to get into the mind
19 of Brandon. The actions of Dakota are not
20 normal. He is a 3rd District officer. He's
21 seen this before. Usually when one of these
22 guys is caught with a gun, they run, they ditch
23 the gun, then they give up. But Dakota is not
24 doing this. He is continuing to run. Brandon

1 knows this is strange and everything he knows he
2 believes his actions are consistent with someone
3 that has a gun.

4 Dakota gets over the last fence and
5 stops. He's got to be feeling Officer Razo to
6 his east. He must have seen Officer Bruno as he
7 sped by him, and he knows that Officer Sledge,
8 Bruno's partner, is somewhere out there to his
9 west.

10 He is trapped in the last yard. He
11 then reaches for his left side. Brandon sees
12 him stop. He sees Dakota turn and look at
13 Brandon, and he sees him reach. Why does he
14 reach? Maybe he was adjusting his pants that
15 the photographic evidence shows were hanging
16 below his waistline. Maybe he was going to turn
17 east and his right hand followed his body.
18 Maybe he was looking for the phone which the
19 evidence will show he dropped as he was hopping
20 fences. Why he reached, we will never know.
21 But it doesn't matter. It only matters to
22 Brandon, because in that reach, Brandon was
23 required to make a split-second decision that
24 we're all going to sit here and question.

1 The only thing Brandon sees is a
2 person reaching in the area where Brandon last
3 saw him place a gun. Brandon's scared. He is
4 only human. Primal instincts of protecting
5 himself go into effect. The training he was
6 taught kicks in. And there's no time to seek
7 cover. He raises his gun and fires. The
8 distance is 54 feet. A distance that is less
9 than what a pitcher throws to a batter at a
10 baseball game, as Brandon's mind assesses Dakota
11 reaching for the area where Brandon last seen
12 the gun. As Brandon is processing the magnitude
13 of the situation, his body -- his mind tells his
14 body to react, and he quickly punches out and
15 fires. In those split seconds, Dakota turns and
16 is struck by the round.

17 You will be asked to determine if
18 Brandon reasonably believed that use of deadly
19 force was necessary. It was.

20 Brandon had no clue that the Dakota
21 had ditched the gun as he ran north on Indiana.
22 He believed Dakota was going for that gun, was
23 going to shoot him.

24 Now, the City is going to call an

1 expert. Not a Chicago-based expert, but a very
2 intelligent and impressive academic that is
3 going to tell us all about how Brandon acted
4 improperly. This expert will be highly
5 articulate. We will learn all about new
6 policing procedures and use of force. But
7 Brandon was not acting under those new
8 guidelines, he was acting under the Chicago
9 use-of-force guidelines that were in effect.

10 We will hear from an expert -- we
11 will call an expert who does not spend his days
12 at conferences talking in the abstract with use
13 of force. We will hear from Officer Cantore who
14 teaches our recruits at the Chicago Police
15 Academy the use-of-force guidelines. He is
16 probably there today right now explaining use of
17 force to future police officers. The guy that
18 the City pays to teach the officers. And
19 Cantore will tell you the force used by Brandon
20 was not only justified but reasonable.

21 Look, if the City wants to change
22 the approach of use of force, that's fine.
23 We're okay with that. Just tell us where and
24 when and we'll show up.

1 But you can't change the rules
2 after the game has been played. You can't say
3 to us, no, it's two outs in an inning, not
4 three.

5 That's amazingly unfair to the
6 members of the Chicago Police Department who are
7 out there every single day putting their lives
8 on the line. And it's beyond incredibly unfair
9 to Brandon.

10 He followed the use-of-force
11 guidelines as they are written, as they are
12 expressed, and most importantly in the manner in
13 which we taught him.

14 Brandon is not a beat cop up in
15 Edison Park. He is not working a radar begun on
16 Irving Park. He is working as a tactical
17 officer in the 3rd District. The part of the
18 department that does the heavy lifting, that
19 does the work, a lot of police officers do not
20 want to do and the things that many of us don't
21 want to hear about. His work is extremely
22 dangerous. Why didn't he stop chasing and call
23 for backup? There is no backup. He is the
24 backup.

1 The officer who sits here before
2 you has over a 120 departmental commendations.
3 He has been awarded the medal of valor from the
4 Superintendent and the mayor of the City of
5 Chicago. He does not ask for much. He is not
6 complaining. He hasn't asked for a transfer.
7 We tell him to go to the worst neighborhoods,
8 get the guns, stop the violence. He says, Fine,
9 no problem. I got this.

10 But he does ask one thing. He asks
11 us to have his back. He asks us to appreciate
12 what he is up against. And he is asking you,
13 ladies and gentlemen of the Police Board, to
14 have his back and honor the agreement you made
15 with him.

16 The end results, Brandon's actions
17 are reasonable and justified. Reinstatement is
18 the only just award. Thank you.

19 HEARING OFFICER WOOD: Thank you. Ready to
20 call your first witness?

21 MR. FIEWEGER: Yes. I'm going to mark
22 this. We'll call Officer Brandon Ternand.

23

24

1 (Witness was duly
2 sworn.)

3 BRANDON TERNAND,
4 called as a witness herein, after having been
5 first duly sworn, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. FIEWEGER:

9 Q. Good morning, Officer Ternand. My
10 name is Jim Fieweger. I represent the City in
11 this proceeding. I will ask you a few
12 questions, primarily focused around the events
13 of November 8th, 2012.

14 When did you join the Chicago
15 Police Department?

16 A. June 4th, 2007.

17 Q. Like to make sure, keep your voice up,
18 so everybody can hear you.

19 A. Okay. Will do.

20 Q. So June 4th, 2007. Is that what you
21 entered the academy or discharge?

22 A. That's when I entered the academy.

23 Q. How long did the academy training
24 last?

1 A. Approximately six months.

2 Q. And after discharge from the academy,
3 did you go straight to the 3rd District?

4 A. Yes, I did.

5 Q. You spent your entire career in the
6 3rd District, correct?

7 A. Not my entire career.

8 Q. Other than 3rd District, where else?

9 A. Approximately 2016 I went to the 5th
10 District, and 2017 I went to 11th District.
11 And a small detail in gang investigations.

12 Q. Where are you assigned now?

13 A. I'm not assigned anywhere at the
14 moment.

15 Q. Prior to your no-pay status, where
16 were you assigned?

17 A. Would be the 11th District.

18 Q. What was your assignment in the 11th
19 District?

20 A. Prior to --

21 Q. Prior to the charges being filed.

22 A. I was working in the SDSC room.

23 Q. What is that?

24 A. Like high-tech crime-fighting stuff.

1 Shots fired, hunch lab, I was working inside
2 there. Helping put together gang profiles on
3 people, stuff like that.

4 Q. And when was it that you left the 3rd
5 District?

6 A. It was, I think, beginning of 2016.

7 Q. So from roughly late 2007 to the
8 beginning of 2016, you served in the 3rd
9 District?

10 A. That's correct.

11 Q. What positions did you hold during
12 that time frame?

13 A. Initially when I got -- you know, I
14 was a PPO when I got put in the 3rd District, I
15 was in patrol. After about a couple of years,
16 I became a tactical officer, and I
17 maintained -- I was on the same team, same beat
18 the entire time, 363 Boyd.

19 Q. Until you left in 2016?

20 A. Correct.

21 Q. How many people are on the team, 363?

22 A. Can range anywhere from eight to ten.

23 Q. And did you have a regular partner
24 during that time frame?

1 A. Yes, I did.

2 Q. Who was that?

3 A. Officer Razo.

4 Q. Was he your partner the entire time
5 when you were on the technical team?

6 A. Not the entire time, no.

7 Q. At what point did he stop being your
8 partner?

9 A. I don't recall. Somewhere in the
10 range of like 2015 maybe.

11 Q. And he was your partner in November of
12 2012?

13 A. Yes, he was.

14 Q. Who were the other members in November
15 of 2012?

16 A. I believe it was Officer Lara, Officer
17 Beatty, Officer Sledge, Officer Bruno, Sergeant
18 Schnier, Officer Moore, Officer Herrera, I
19 think that's it. Hopefully I didn't forget
20 anyone.

21 Q. What were the responsibilities
22 addressed by the tactical team?

23 A. Our focus was on gangs and violence.

24 Q. And you guys patrolled the 3rd

1 District?

2 A. That's correct.

3 Q. And that included the area that's
4 shown in Exhibit 1, the area just south of
5 Marquette and between Indiana and Prairie, that
6 was part of the 3rd District?

7 (WHEREUPON, said
8 document was marked as
9 Superintendent
10 Deposition Exhibit No. 1
11 for Identification.)

12 A. That's part of the 3rd District, yes.

13 Q. I want to direct your attention to
14 November 8th, 2012. You were on duty that day?

15 A. Yes, I was.

16 Q. How did you start that day?

17 A. Well, my day actually started I was
18 actually in juvenile court.

19 Q. So you appeared in court in the
20 morning. Did you eventually join your partner
21 Officer Razo?

22 A. Yes, I did.

23 Q. Do you remember what time you joined
24 him?

1 A. No. In the early afternoon.

2 Q. And was Officer Razo out on patrol at
3 that point?

4 A. No, I met him in the station. I don't
5 know what he was doing before.

6 Q. Once you met him mid-afternoon, did
7 you and Officer Razo go out on patrol?

8 A. Yeah, we responded to a burglary call.

9 Q. You responded to a burglary. Do you
10 know where it was located?

11 A. Somewhere in that area, 67th and
12 Prairie.

13 Q. Do you see the building on Exhibit No.
14 1 to which you responded to the burglary call?

15 A. Yes.

16 Q. I'm going to hand you a red marker.
17 Can you just mark the building on Exhibit 1
18 with a B that you responded to for the
19 burglary.

20 A. Is this -- I can't tell if that's a
21 lot.

22 Q. That looks like a lot.

23 A. I think this is one building, so I'm
24 going to put this building. Want me to put --

1 Q. A B.

2 A. Okay.

3 Q. Great.

4 HEARING OFFICER WOOD: Can we make it clear
5 for the record where he placed the B?

6 MR. FIEWEGER: Officer Razo -- Officer
7 Ternand has marked as Exhibit No. 1 by placing
8 a red B on the image of the building that
9 appears to be on the corner of -- the southwest
10 corner of Marquette and Prairie.

11 THE WITNESS: That would be east. That's
12 west.

13 MR. FIEWEGER: Okay.

14 HEARING OFFICER WOOD: Okay.

15 BY MR. FIEWEGER:

16 Q. Did anybody else respond with you to
17 that call?

18 A. Officer Bruno and Officer Sledge did.

19 Q. And were you riding in a vehicle with
20 Officer Razo?

21 A. I was.

22 Q. Which vehicle were you driving?

23 A. What do you mean?

24 Q. What type of vehicle were you riding

1 in?

2 A. A Crown Vic.

3 Q. So that was readily identifiable as an
4 unmarked police car?

5 A. Yeah, it had municipal plates on the
6 front, spotlights.

7 Q. And what vehicle were Officer Bruno
8 and Officer Sledge driving?

9 A. I believe a Tahoe, but I'm not a
10 hundred percent sure on that.

11 Q. Do you know who was driving the
12 vehicle that Officer Bruno and Officer Sledge
13 were in?

14 A. I don't remember.

15 Q. Who was driving the vehicle you were
16 in?

17 A. Officer Razo.

18 Q. What equipment were you carrying that
19 day?

20 A. My equipment?

21 Q. Yes.

22 A. Had a high ballistic vest with police
23 patch, the police star and my duty belt, my
24 gun, handcuffs.

1 Q. What else is on your duty belt besides
2 your gun?

3 A. Other magazines, handcuff, flashlight.

4 Q. Any other equipment that you had with
5 you?

6 A. Not that I recall.

7 Q. Did you carry a radio?

8 A. Yes, I did.

9 HEARING OFFICER WOOD: A what?

10 MR. FIEWEGER: Radio.

11 BY MR. FIEWEGER:

12 Q. Did you have that radio with you on
13 November 8th, 2012?

14 A. Yes, I did.

15 Q. So you went to the vicinity of
16 Marquette and Prairie in response to the
17 burglary call. What do you recall happened?

18 A. With the burglary?

19 Q. With the burglary.

20 A. I think it turned out just to be
21 movers, so it was a false call. What we
22 believed to be a false call. And we just were
23 going to go back to the station. So we went to
24 go turn around.

1 Q. So were you heading southbound on
2 Prairie?

3 A. When we responded to the call?

4 Q. Yes.

5 A. Yes.

6 Q. And after you -- so physically where
7 did you go in relation to the building where
8 the burglary was supposedly taking place, the
9 side, front, back?

10 A. It's a pretty narrow street. We were
11 right on the street.

12 Q. Right on the street on Prairie in
13 front of the building on which you marked the
14 B?

15 A. Yeah.

16 Q. After you determined it was a false
17 call, what did you do?

18 A. We were going to go back to the police
19 station, so we had to drive through the alley,
20 turn around and go back.

21 Q. So you proceeded southbound on Prairie
22 to the alley that runs parallel with Marquette?

23 A. That's correct.

24 Q. And then you turned into the alley and

1 headed westbound?

2 A. Westbound, yes.

3 Q. So was your car -- was Officer Razo's
4 car driving in front of Officer Sledge and
5 Officer Bruno's car?

6 A. Yes.

7 Q. Do you remember how far behind you
8 they were?

9 A. No.

10 Q. As you drove westbound in the alley
11 that's parallel to Marquette, at some point did
12 you see an individual step into the alley?

13 A. Yes, I did.

14 Q. Where approximately in the alley was
15 your car located when you saw this person
16 stepping in the alley?

17 A. Well, we were moving, and he was
18 moving, so -- can I show you?

19 Q. Sure. Why don't you mark a one to
20 where your car was located at the time you
21 first saw Dakota Bright step into the alley.

22 A. So I was moving, so I saw a -- we're
23 moving probably 15, 20 miles per hour. So I
24 mean -- and he is coming towards us. So we're

1 going to be like somewhere in this range right
2 here. You want a one?

3 Q. Yes.

4 For the record, Officer Ternand
5 has marked a red oval in the area that's
6 parallel to Marquette and placed a one in that
7 for the general location of where you were when
8 you first saw Dakota Bright enter the alley,
9 correct?

10 A. Yeah, that's approximate. That's the
11 best guess I can give.

12 Q. Can you mark on Exhibit 1 with a two
13 where Dakota Bright was located when you first
14 observed him?

15 A. Do you want me to put flight path?

16 Q. Place where he was when you first saw
17 him.

18 A. So he was moving also towards us with
19 a gun in his hand. He was right -- let me make
20 sure. This is the mouth, right?

21 Q. Yes.

22 A. So he would be like in here.

23 Q. You can put a two on that, please.

24 A. Two.

1 MR. FIEWEGER: For the record, Officer
2 Ternand has marked a circle that's generally on
3 the southern end of the intersection between
4 that alley and South Indiana and marked it with
5 a two.

6 BY MR. FIEWEGER:

7 Q. That's where you first observed Dakota
8 Bright?

9 A. That's correct.

10 Q. What was he wearing?

11 A. He was wearing a red hoodie tied
12 tightly and red shoes.

13 Q. So did he have his hood up?

14 A. Yes, it was up and tied very tightly.

15 Q. The hood itself, was it red?

16 A. Yes.

17 Q. And the body of his clothes, the body
18 of the sweatshirt itself was red?

19 A. Yes.

20 Q. Do you remember about how large was
21 that person when you first observed him? Did
22 you make any estimate about his size?

23 A. At the time I believe I estimated in
24 my mind he was approximately six feet.

1 Q. Did you have any sense of how large he
2 was, his weight?

3 A. Regular, medium build.

4 Q. Any estimate as to how much he
5 weighed?

6 A. Somewhere in the range of 150 to 170.

7 Q. Was there anything about his
8 appearance that indicated to you that he was
9 under the influence of any drugs or alcohol?

10 A. No. The only thing with his
11 appearance was that he was dressed in those DOD
12 gang colors with the red top and red shoes, and
13 the fact he had a gun in his hand.

14 Q. The red top and red shoes indicated to
15 you that he was likely a member of a gang?

16 A. Well, in addition to the gun in his
17 hand, yes.

18 Q. We'll get to that.

19 Was there anything about his
20 appearance that indicated to you that he was
21 under the influence of drugs or alcohol?

22 A. I don't even know how to answer that.

23 Q. In the time that you observed him, you
24 didn't see anything about him that made you

1 think he was either drunk or high?

2 A. It takes time to assess. There's no
3 way I could have assessed that. No, I can't
4 even give you an answer on that. I have no
5 idea. I have no idea.

6 Q. And there wasn't anything that he was
7 doing that made you think he might be medically
8 ill?

9 A. I have no idea. Quick -- I can't make
10 that determination that quick. There's no way
11 to answer that.

12 Q. In the brief moment that you saw him,
13 there wasn't anything that you observed that
14 led you to believe he was drunk, high or
15 mentally ill, correct?

16 A. I don't have enough time to evaluate
17 those factors.

18 Q. So you did not make that determination
19 at that time?

20 A. No.

21 Q. You said you saw a gun in his
22 possession, correct?

23 A. He had a gun.

24 Q. You saw that in his right hand?

1 A. That's correct.

2 Q. And his right hand was down by his
3 side, correct?

4 A. That's correct.

5 Q. But you couldn't see the whole gun,
6 correct?

7 A. I could see the whole gun, whatever
8 the hand covers.

9 Q. The only portion of the gun you could
10 see was the barrel, correct?

11 A. Well, you can see the gun, but
12 whatever your hand wraps around, that's the
13 part I couldn't see.

14 Q. The only portion of the gun you do see
15 was the barrel?

16 A. Pretty much the part that sticks out,
17 yeah.

18 Q. At that point, you couldn't tell
19 whether or not it was a revolver or
20 semiautomatic, correct?

21 MR. GRACE: Objection. I'm trying to
22 figure out, he is asking -- these questions
23 when did he first see Dakota. Is he now asking
24 the witness at what point did he see the gun?

1 I'm confused what point we're at. Foundation
2 is my objection.

3 HEARING OFFICER WOOD: I thought we were
4 all at the same place.

5 MR. FIEWEGER: I did, too.

6 HEARING OFFICER WOOD: I thought that he
7 saw him, and he saw him with the gun happened
8 simultaneously.

9 MR. GRACE: That wasn't the testimony.
10 That's not what -- I think counsel would like
11 it to be that way.

12 HEARING OFFICER WOOD: But I think that's
13 what I heard the witness say. I heard him say
14 I saw him with a gun. That doesn't sound like
15 that was two steps, that's one step. I saw him
16 with a gun.

17 MR. GRACE: Okay. I think we veered off
18 into what he looked like, and he is asking him
19 what did he look like, how is he dressed at the
20 moment.

21 HEARING OFFICER WOOD: That he saw him.

22 MR. GRACE: Okay. But is he asking him
23 what point did he make all these assessments,
24 how he is dressed, moving westbound down the

1 alley. That should be clear. I guess we can
2 clear it up in redirect.

3 HEARING OFFICER WOOD: I thought we were
4 still at when he first sees him.

5 MR. FIEWEGER: That's what I thought, too.

6 HEARING OFFICER WOOD: We clarified that.
7 That's what your line of questioning is when
8 the officer first sees him.

9 MR. FIEWEGER: Right.

10 HEARING OFFICER WOOD: Does that clarify
11 for you?

12 MR. GRACE: It's up to the witness.

13 HEARING OFFICER WOOD: What was your
14 objection?

15 MR. GRACE: My objection is that he started
16 questioning off when you first see Dakota, how
17 is he dressed, then he proceeds to ask
18 questions about his coloring, was he
19 intoxicated, all those things. Is he asking
20 him are you making those determinations as you
21 get closer to him or when you first saw him,
22 the moment you first saw him?

23 HEARING OFFICER WOOD: He just said he is
24 asking him when he first saw him.

1 MR. GRACE: Understood now. Okay. That's
2 fine.

3 BY MR. FIEWEGER:

4 Q. When you first observed Dakota Bright,
5 was he walking in an easterly direction into
6 the alley?

7 A. It would be east, yes.

8 Q. How many steps moving eastward did he
9 take?

10 A. Maybe one and a half, two steps. I
11 mean -- I don't want to put a number on it. He
12 stepped towards us.

13 Q. At most one and a half or two steps?

14 A. Could have been more, but...

15 Q. After a step or two, he turned to his
16 -- to the north, correct?

17 A. He turned to what would be his left.

18 Q. He turned to his left, which would be
19 the north, correct?

20 A. Yes, sir.

21 Q. And as he did that, you saw him move
22 his right hand towards his left hip, correct?

23 A. Yes.

24 Q. And at that point after he did that,

1 you couldn't see the weapon anymore, correct?

2 A. At that point, no.

3 Q. So at most you saw that weapon for a
4 period of one and a half steps and then a turn,
5 correct?

6 A. I mean there were some brief steps
7 where he came on an angle. You said how many
8 steps did he come forward?

9 Q. Right.

10 A. But very briefly, where he comes
11 around the corner, couple of steps, whatever
12 the distance when you are at that edge and you
13 come into the mouth, maybe three or four more
14 steps.

15 Q. Okay.

16 A. I'm estimating again on the steps
17 again.

18 Q. At this point when you observed him
19 with the gun, you and your officer had not
20 received any calls over the radio about any
21 shots fired in the neighborhood, correct?

22 A. No.

23 Q. There weren't any reported incidents
24 of somebody using a handgun in the neighborhood

1 at the point you observed Dakota Bright?

2 A. Reported incidents?

3 Q. Correct.

4 A. What do you mean, historically or --

5 Q. That you were responding to?

6 A. That we were responding to, no.

7 Q. So as -- I take it it appeared to you
8 as if Dakota Bright saw you or saw your
9 vehicle, correct?

10 A. Yes. He looked at us.

11 Q. And that's the point where he turned
12 to his left towards the north, correct?

13 A. He turned as he tucks the gun.

14 Q. And then he began to move north across
15 the alley towards the sidewalk on Indiana,
16 correct?

17 A. That's correct.

18 Q. And once he turned and tucked the gun
19 to his hip, you couldn't see the weapon
20 anymore?

21 A. No, I couldn't.

22 Q. In fact, you never saw the weapon
23 again after that, correct, throughout this
24 incident?

1 A. I never saw the gun ever again?

2 Q. No. Between the time that he turned
3 and tucked it to his left hip and at the time
4 you shot him at the end of the chase, you never
5 saw that weapon again?

6 A. You're saying saw it on his person or
7 what are you saying?

8 Q. Yes. I'm saying from the point in
9 time when he -- in the alley when he turned to
10 the left, and he tucked it against his hip, at
11 that point you told me you can't see the weapon
12 anymore, right?

13 A. Right.

14 Q. You never saw the weapon again from
15 that point until when you fired the shot at
16 him?

17 A. That's correct.

18 Q. So after you had observed Dakota
19 Bright, and he turned and ran north, my
20 understanding is he ran north along the
21 sidewalk on Indiana towards Marquette, correct?

22 A. Ran north towards Marquette, yes.

23 Q. Did he run up on the sidewalk?

24 A. Well, I caught the very tail end of

1 him on Indiana. He was already kind of making
2 the turn. There's like a little grassy area,
3 and he is cutting across to Marquette.

4 Q. So as he turned and began running up
5 Indiana, you lost sight of him?

6 A. You're saying when he got to Indiana?

7 Q. Yes.

8 A. I lost sight of him when we were
9 coming around. I didn't see him again until
10 the corner. And we drive up, lose sight of him
11 again briefly on Marquette.

12 Q. About where in the alley were you
13 located when you lost sight of Dakota Bright?

14 A. Just a few more feet up where we
15 initially saw him. Matter of seconds.

16 Q. Could you mark a three on Exhibit No.
17 1 where you were located when you lost sight of
18 Dakota Bright?

19 A. Going to be somewhere in here.

20 Q. Okay. Record should reflect that
21 Officer Ternand has made a circle within the
22 alley that runs parallel to Marquette and
23 marked that with a three.

24 HEARING OFFICER WOOD: That's the period

1 where you lost sight of him, is that the --

2 MR. FIEWEGER: Yes.

3 HEARING OFFICER WOOD: Is that what that
4 represents?

5 MR. THOMPSON: This is the house. We
6 were -- either way we were obstructed right
7 here. We couldn't see, so however far. Yeah,
8 somewhere in here because we couldn't see when
9 he got right here. There were like trees and
10 bushes and stuff right there.

11 BY MR. FIEWEGER:

12 Q. Okay. So as he ran north on Indiana,
13 you lost sight of him, and you and Officer Razo
14 then proceeded in your vehicle west down the
15 alley continued to Indiana, correct?

16 A. Yes.

17 Q. Did anybody make a radio call at that
18 point?

19 A. I know Officer Razo made a radio call.
20 I don't know exactly when he made it, if he is
21 in the alley or already on Indiana. I'm
22 guessing he may be on Indiana, but that's a
23 guess.

24 Q. So you drove west to Indiana, drove

1 into the street and turned north, correct?

2 A. That's correct.

3 Q. And at that point you were able to see
4 Dakota Bright?

5 A. That's correct.

6 Q. And that's the point where you told us
7 he was approaching Marquette and was starting
8 to cut across the grass to run east on
9 Marquette, correct?

10 A. Yes.

11 Q. You and Officer Razo then drove your
12 vehicle north on Indiana to Marquette, correct?

13 A. Yes.

14 Q. You said that Officer Razo made a
15 call. Do you remember what he called out?

16 A. Yeah, I recall him saying that -- I
17 believe he gave the description, and he said he
18 was holding his left side.

19 Q. You had seen Dakota Bright with a gun
20 in his hand, correct?

21 A. That's correct.

22 Q. And Officer Razo had seen Dakota
23 Bright with a gun in his hand, correct?

24 A. That's correct.

1 Q. But nobody made a radio call saying
2 the suspect has a gun, correct?

3 A. No, said he is holding his left side.

4 Q. But you actually identified that you
5 had a gun but nobody made a call he has a gun,
6 correct?

7 MR. THOMPSON: Objection. Asked and
8 answered.

9 MR. FIEWEGER: I don't think he answered
10 it.

11 HEARING OFFICER WOOD: I don't know that he
12 answered it. Let's read the question.

13 (Said question was read
14 back.)

15 HEARING OFFICER WOOD: It does seem like it
16 was answered.

17 MR. FIEWEGER: Okay.

18 BY MR. FIEWEGER:

19 Q. At this point, you didn't recognize
20 Dakota Bright, did you? You didn't know who he
21 was?

22 A. No, I didn't -- what his name was or
23 anything, no.

24 Q. At any point during the chase, you

1 didn't know who Dakota Bright was, correct?

2 A. No.

3 Q. And you didn't recognize him as
4 somebody you had any other encounters with,
5 correct?

6 A. No, I didn't.

7 Q. But you learned subsequent to the
8 chase that there was an outstanding warrant
9 regarding Dakota Bright, correct?

10 MR. THOMPSON: Objection. Foundation,
11 relevance.

12 HEARING OFFICER WOOD: Foundation for
13 whether he knew there was a warrant?

14 MR. THOMPSON: We already went over the
15 warrant material in the prehearing.

16 MR. FIEWEGER: I understand that.

17 MR. THOMPSON: And you denied that at that
18 time.

19 HEARING OFFICER WOOD: Give me a second.

20 MR. FIEWEGER: It was our motion to exclude
21 it. I can waive that.

22 MR. GRACE: We planned our case based upon
23 that coming in, Judge.

24 HEARING OFFICER WOOD: That's a little

1 unusual. You're waiving your own motion that I
2 granted you relief on.

3 MR. GRACE: That's fine.

4 MR. FIEWEGER: With respect to Officer
5 Ternand's awareness of whether or not there was
6 a warrant outstanding for Dakota Bright.

7 MR. GRACE: That's fine.

8 MR. FIEWEGER: And it's because during the
9 opening they made a big deal about how this is
10 out of the ordinary, why does the kid keep
11 running.

12 HEARING OFFICER WOOD: Okay. It's your
13 case. If that's what you want to do. You have
14 no objection?

15 MR. THOMPSON: If it's going to come in,
16 then I have the exhibit of the warrant, and I'd
17 like to be able to introduce the warrant for
18 Dakota Bright that was outstanding for battery
19 at this time.

20 MR. FIEWEGER: I have no objection if it is
21 limited to simply that warrant.

22 MR. THOMPSON: That's fine.

23 HEARING OFFICER WOOD: Okay. I'm a little
24 confused. You filed a motion to exclude any

1 reference --

2 MR. FIEWEGER: We argued at the prehearing
3 conference that this limitation should not come
4 in because Officer Ternand was not aware of it.
5 Defense indicated in their opening one of their
6 theories about the case is this is crazy, why
7 did he keep running. He kept running because
8 he's got a warrant outstanding.

9 MR. THOMPSON: No, that's not -- that's not
10 theory. It's true that he is a wanted suspect
11 on a separate incident and a separate criminal
12 offense, but that's not -- I don't remember us
13 ever mentioning that he was fleeing because of
14 a warrant.

15 HEARING OFFICER WOOD: It's just highly
16 unusual to get a motion to exclude something
17 and then for you to decide to bring it in. But
18 I don't want to stop you from doing your case
19 the way you want to. If you they're not going
20 to object, then I'm going to let you mention
21 it. Just understand that you are opening the
22 door now.

23 MR. FIEWEGER: I understand.

24 HEARING OFFICER WOOD: You can't limit, you

1 can't unring the bell. If you bring it in,
2 they get to bring it in, and they get to talk
3 about it. You understand that?

4 MR. FIEWEGER: I understand that.

5 BY MR. FIEWEGER:

6 Q. So you subsequently learned there was
7 a warrant outstanding for Dakota Bright,
8 correct?

9 A. I didn't know probably till -- I don't
10 know if I knew that day. Maybe the next day or
11 weeks later.

12 Q. So while you were engaged in this
13 chase, you had no idea that there was a warrant
14 outstanding for Dakota Bright, correct?

15 A. I did not, no.

16 Q. So as you came out of the alley and on
17 Indiana, and you're able to see Dakota Bright
18 again, you couldn't see whether or not he had
19 anything in his hands, correct?

20 A. At which point again? I'm sorry.

21 Q. When you came out of the alley and
22 turned onto Indiana.

23 A. No, I could just see that he had -- he
24 was favoring his left side.

1 Q. So he was holding his pants on his
2 left side?

3 MR. THOMPSON: Objection. Leading
4 question.

5 HEARING OFFICER WOOD: It is an adverse.

6 MR. THOMPSON: We didn't establish that in
7 the beginning.

8 HEARING OFFICER WOOD: It was very clear
9 that he is calling him as an adverse witness in
10 his case.

11 MR. THOMPSON: Okay. If we're clear now he
12 is an adverse witness.

13 HEARING OFFICER WOOD: That's the only way
14 he could call him.

15 MR. GRACE: Also objection, misstates the
16 evidence. Officer Ternand just testified he
17 was favoring his left side and counsel said,
18 Okay, he was holding his pants on his left
19 side. That's not the testimony.

20 MR. FIEWEGER: If that's not the testimony,
21 he can say so. He hasn't answered the
22 question.

23 HEARING OFFICER WOOD: Ask the question
24 again so it's clear.

1 BY MR. FIEWEGER:

2 Q. As he was running, you saw him holding
3 his pants on his left side?

4 A. I believe he was holding a gun.

5 Q. But his hands were towards his
6 waistband on his left side, correct?

7 A. That's correct.

8 Q. You didn't see any gun?

9 A. I believed it was tucked.

10 Q. So he continued to run while his hands
11 were holding his waistband, correct?

12 A. His left hand.

13 Q. And his right hand, was that free and
14 in a running motion?

15 A. You're saying at which point?

16 Q. As he was running up Indiana and
17 turning on to Marquette.

18 A. Yeah, I believe it was just his left
19 hand. I think you could see his right hand.

20 Q. As you approached -- so Officer Razo
21 drove your car up Indiana to Marquette,
22 correct?

23 A. That's correct.

24 Q. And then he turned right so he was

1 traveling eastbound on Marquette, correct?

2 A. That's correct.

3 Q. By the time that you got to the corner
4 of Indiana and Marquette, where was Dakota
5 Bright?

6 A. Indiana and Marquette?

7 Q. Yes.

8 A. He would be running eastbound
9 approaching that vacant lot.

10 Q. So he was still west of the vacant lot
11 by the time you got at that point?

12 A. Yeah, you could say that. Yes.

13 Q. And then you and Officer Razo turned
14 right and headed east on Marquette. Where did
15 Dakota bright go?

16 A. Southbound through that vacant lot.

17 Q. That looks like the fourth lot west of
18 the corner of Indiana and Marquette?

19 A. It's the first lot.

20 Q. The first vacant lot?

21 A. Okay.

22 Q. It appears to be the fourth lot from
23 the corner of Indiana and Marquette. Would you
24 agree with that?

1 A. Yeah, I agree with that.

2 Q. When Officer Razo got the car far
3 enough east that you were adjacent to the
4 vacant lot, you exited the car, correct?

5 A. That's correct.

6 Q. You began chasing Dakota Bright
7 southbound through that vacant lot back towards
8 the alley that you had come out of?

9 A. That's correct.

10 Q. At this point you had taken your gun
11 out of its holster, correct?

12 A. I did.

13 Q. And you were chasing him with your
14 service revolving in your right hand?

15 A. Semiautomatic.

16 Q. Semiautomatic. It was in your right
17 hand?

18 A. Yes.

19 Q. What kind of gun were you carrying?

20 A. Glock 22 40 caliber.

21 Q. That gun holds 15 rounds?

22 A. Yeah, 15.

23 Q. And it was fully loaded that day,
24 correct?

1 A. Yes, it was.

2 Q. As you ran through the vacant lot, at
3 no point did Dakota bright turn back and look
4 at you, did he?

5 A. I don't recall.

6 Q. So you don't recall Dakota bright ever
7 looking back as if he was going to confront
8 you?

9 A. In a --

10 Q. As he ran through the vacant lots?

11 A. As if to confront me?

12 Q. Yes.

13 A. No.

14 Q. How far south through the lot was
15 Dakota Bright when you got out of the car?

16 A. He was in the lot. Maybe near the top
17 half of that lot. As I'm exiting, because as
18 I'm getting out, he is in the lot. He is in
19 the lot somewhere near -- you know, I guess
20 that would be the south end of the lot.

21 Q. Can you estimate how far south in the
22 lot he was when you got out of the car?

23 A. Are we talking -- estimation of feet
24 or --

1 Q. Yeah.

2 A. Once again --

3 Q. With the understanding that lot is
4 about 150 feet deep.

5 A. Maybe -- I'm going to estimate here
6 about 50, 60 feet.

7 Q. So he was a little bit less than
8 halfway through the lot when you exited the
9 car?

10 A. Well, yeah, about halfway, a little
11 over half, I guess.

12 Q. So he continued to run through the
13 lot, correct?

14 A. That's correct.

15 Q. And he continued to hold his left hand
16 near his waistband?

17 A. Yeah, majority.

18 Q. And his right hand continued to pump
19 as he was running?

20 A. He would periodically his hand would
21 pump. He would run. I mean sometimes when
22 he'd go over the fence, his hand would come
23 off, but he would always go back to that left
24 side.

1 Q. At no point as you chased him through
2 that vacant lot did you see anything in his
3 hands, correct?

4 A. Did I see anything in his hands? No.

5 Q. There's a chain -- a link chain
6 between that vacant lot and the alley, correct?

7 A. Correct.

8 Q. He jumped over that and ran through
9 the alley, correct?

10 A. Correct.

11 Q. And then you followed him, correct?

12 A. Correct.

13 Q. On the south side of that alley
14 between the alley and that next lot, there's a
15 guardrail, correct?

16 A. Correct.

17 Q. And he jumped over that guardrail,
18 correct?

19 A. Correct.

20 Q. And he kept running south through the
21 backyards of those houses on Indiana, correct?

22 A. That's correct.

23 Q. As you approached the -- as you exited
24 the car, did anybody make any calls over the

1 radio?

2 A. As I exited?

3 Q. Yes.

4 A. I mean I think I may have said that he
5 was coming back to you, Gino. I think that may
6 have been me. I'm not sure.

7 Q. And that occurred when you saw him
8 turn into the vacant lot?

9 A. As soon as he was going to the lot,
10 one of us said he is coming back, meaning
11 doubling back.

12 Q. So that would have been before you got
13 out of the car, correct?

14 A. Simultaneously or before. It's hard
15 to say.

16 Q. Did you make any calls over your radio
17 or over the radio indicating you got out of the
18 car and started chasing?

19 A. No, I don't think he'd ever done
20 anything like that.

21 Q. And you didn't hear your partner make
22 any calls indicating that you had gotten out of
23 the car and started chasing Dakota Bright?

24 A. No. My partner had already called out

1 the chase. The chase had already begun. I
2 exited the vehicle and continued the chase.

3 Q. You never heard your partner call out
4 that you had gotten out of the vehicle and were
5 now separated and chasing him on foot, correct?

6 A. No, he never made that transmission,
7 no.

8 Q. Now, as you continued to chase Dakota
9 Bright through the vacant lot, he ran through
10 that first lot south of the alley, and there's
11 a fence between the first lot and the second
12 lot south of the alley, correct?

13 A. I'm trying to figure out -- what yard
14 are we talking about right now?

15 Q. So the yard immediately south of the
16 alley.

17 HEARING OFFICER WOOD: Excuse me. Can we
18 use the clicker or something? Because I don't
19 think it's really clear, so that the witness
20 understands what you're talking about.

21 BY MR. FIEWEGER:

22 Q. So this is the area that's
23 marked -- there's a link chain, correct?

24 A. Yes, sir.

1 Q. This is the area where there's a
2 guardrail, correct?

3 A. That is correct.

4 Q. So Dakota Bright then jumped over the
5 guardrail and ran through this first lot south
6 of the alley, correct?

7 A. Yes.

8 Q. Where were you located when he jumped
9 over the guardrail?

10 A. I'm somewhere in that lot.

11 Q. Do you have any recollection how far
12 through the lot you were?

13 A. Specifically I mean I'm running
14 through the lot. You're talking a matter of
15 seconds. I mean I was running through the lot.
16 I can't really pinpoint exactly down to feet.
17 I mean --

18 Q. Can you estimate how far through the
19 lot you ran, halfway, two-thirds of the way?

20 MR. THOMPSON: Madam Hearing Officer, if we
21 could just identify for the record when we're
22 talking about the lot, we're talking about the
23 vacant lot.

24 MR. FIEWEGER: Thank you, Jim.

1 HEARING OFFICER WOOD: Yes. Thank you.

2 THE WITNESS: I mean I was running
3 partially through it. I couldn't exactly -- I
4 know I was somewhere in the middle of it.

5 BY MR. FIEWEGER:

6 Q. Okay. This first lot immediately
7 south of the alley is separated from this
8 second lot by a fence, correct?

9 A. That's correct.

10 Q. And that fence is about four feet
11 high?

12 A. Okay.

13 Q. Does that sound right?

14 A. Sounds right.

15 Q. Dakota Bright jumped over that fence,
16 correct?

17 A. Yes, he did.

18 Q. Had he jumped over that fence before
19 you exited the vacant lot of Marquette?

20 A. I don't believe so. But -- yeah, I
21 don't believe so.

22 Q. So he was probably somewhere in this
23 first vacant lot south of the alley as you
24 exited the vacant lot on Marquette?

1 A. I'm not saying that. He hopped the
2 fence. I'm pretty sure I'm in the lot at that
3 point.

4 Q. So you believe you were in --

5 A. Not that lot.

6 Q. You're in this lot?

7 A. When you're talking about the lot, not
8 that lot. I'm somewhere in that lot.

9 Q. Why don't I call it the backyard.
10 That would be less confusing.

11 HEARING OFFICER WOOD: Maybe we should mark
12 it. It is very confusing. Get the pen, and
13 you can tell us what lot you're referring to.

14 THE WITNESS: Okay.

15 BY MR. FIEWEGER:

16 Q. What I'd like you to do is make a four
17 on wherever it is on that image that you were
18 located -- you believe you were located when
19 Dakota Bright scaled that four-foot fence
20 between the first backyard and the second
21 backyard.

22 A. Like I said, I was running,
23 so -- could be -- I'm giving a range here
24 maybe. Somewhere in there. You said you want

1 that to be four?

2 Q. Yes. Okay.

3 So where was Dakota Bright when
4 you were in that vicinity that you marked as
5 four?

6 A. You just asked me -- this is me like
7 giving an estimate of where I thought I was
8 when he is going over this fence. This is my
9 best estimation of where I believe I was when
10 you asked me if he went over that fence.

11 Q. Okay. You continued to run south and
12 then entered that alley that's parallel to
13 Marquette, correct?

14 A. Yeah.

15 Q. At that point, you encountered Officer
16 Bruno, right?

17 A. That's correct.

18 Q. Officer Bruno was on foot?

19 A. Yeah, he was on foot, yes.

20 Q. Did you see Officer Sledge at that
21 point?

22 A. I did not see Officer Sledge.

23 Q. Did you know where Officer Sledge was
24 at that point?

1 A. I had an idea where he might be.

2 Q. Did you see Officer Sledge's vehicle?

3 A. No, I didn't.

4 Q. Was Officer Sledge's vehicle in the
5 alley?

6 A. I don't remember seeing it.

7 Q. At that point did you know where your
8 partner, Officer Razo, was?

9 A. I had a general idea where he might be
10 going.

11 Q. As you encountered Officer Bruno, you
12 told him that you believed that Bright had a
13 gun?

14 A. I said he had a gun.

15 Q. He had a gun, he had a gun?

16 A. Because I didn't want Bruno to get
17 shot.

18 Q. And Officer Bruno then continued east
19 on that alley that's parallel to Marquette,
20 correct?

21 A. That's correct.

22 Q. And then he turned south into the
23 alley that is parallel to Prairie and Indiana,
24 correct?

1 A. Right. I know Bruno went into the
2 alley. I don't know his exact steps. I do
3 know he ended up paralleling me in that alley.

4 Q. After you called out, He's got a gun,
5 you didn't see Officer Bruno anymore, correct?

6 A. No.

7 Q. So after encountering Officer Bruno,
8 you jumped over the guardrail and entered that
9 first backyard, correct?

10 A. That's correct.

11 Q. At this point where was Dakota Bright
12 when you entered that first backyard?

13 A. The first yard, because he got caught
14 on the six-foot fence, and he got caught up
15 right here on the six-foot fence. I don't know
16 if I was in the yard yet. I was further back
17 still when he got caught up here. So I think I
18 may have still been somewhere near the end of
19 this lot, but he was hung up on that fence,
20 then he fell to the ground.

21 Q. Officer, I'm going to hand you what's
22 been marked as Exhibit No. 2.

23 (WHEREUPON, said

24 document was marked as

1 Superintendent Exhibit
2 No. 2 for
3 Identification.)

4 Officer Ternand, I've handed you a
5 document that's been marked as Exhibit No. 2,
6 which is a diagram of the general vicinity or at
7 least a portion of the general vicinity that's
8 shown in Exhibit No. 1. Have you seen Exhibit 2
9 before?

10 A. Yeah, I may have seen this before.

11 Q. If you take a look, there's -- the
12 portion of the diagram that lists the yards,
13 there's 6715, which would be the first yard
14 south of that alley that's parallel to
15 Marquette, correct?

16 A. Yes.

17 Q. And then 6719 is the second yard
18 that's south of that alley, correct?

19 A. Correct.

20 Q. And 6721 is the third one?

21 A. Yes.

22 Q. The diagram indicates that there are
23 fences between the various lots, correct?

24 A. Yes.

1 Q. And the first fence between 6715 and
2 6719 is four-foot tall, correct?

3 A. On which one?

4 Q. Fence between 6715 and 6719.

5 A. Yes.

6 Q. Fence between 6719 and 6721 is
7 six-feet tall, correct?

8 A. Yes.

9 Q. And then the fence between 6721 and
10 6725 is four-feet tall?

11 A. Yes.

12 Q. And the fence between 6725 and 6727 is
13 four-feet tall?

14 A. Yes.

15 Q. Is that consistent with your
16 recollection of how the fences were that
17 afternoon on November 8th, 2012?

18 A. Yeah.

19 HEARING OFFICER WOOD: Can you just for the
20 record explain what Exhibit 2 is?

21 MR. FIEWEGER: Sure. Exhibit 2 is a
22 diagram that was prepared as part of the
23 investigation, I believe either by the officers
24 who -- the detectives who followed up with a

1 supplemental report or by IPRA. And it shows
2 basically the flight path of the chase.

3 HEARING OFFICER WOOD: Okay. So it is
4 somehow a condensed version of what we see in
5 this exhibit?

6 MR. FIEWEGER: Correct.

7 HEARING OFFICER WOOD: Okay. You may
8 proceed.

9 BY MR. FIEWEGER:

10 Q. So as you entered the backyard at 6715
11 South Indiana, had Dakota Bright scaled that
12 six-foot fence between 6719 and 6721?

13 A. Um, I believe he may have already
14 scaled it and was getting up at that point.
15 Like I said, I'm guessing on that. I mean it's
16 an estimation again. I don't know if I was
17 quite in the yard yet. Yeah, I don't recall
18 the exact spot of where I was standing.

19 Q. You said that you saw Dakota Bright
20 get hung up on the six-foot fence?

21 A. Yes.

22 Q. Describe what you saw in terms of him
23 going over that six-foot tall fence?

24 A. He had his body on top, and his body

1 got snagged, I guess, on it. And his clothing
2 was caught, and he fell to the ground.

3 Q. Did he go all the way to the ground?

4 A. Yes.

5 Q. And then he got up from the ground?

6 A. Yes.

7 Q. At that point did he look back at you
8 at all?

9 A. When he was getting up, he just
10 glanced then. He just went to that left side,
11 readjusted and began running again.

12 Q. Did he continue to hold his left side
13 as he was running?

14 A. Yes.

15 Q. So as Dakota Bright stumbled to the
16 ground and then got up and adjusted his pants,
17 you had your gun out at that point, correct?

18 A. Yeah, my gun was out the entire time
19 except for when I briefly went over that
20 four-foot fence, I holstered and to get back
21 over, I redrew my weapon.

22 Q. So at no point when Dakota Bright
23 glanced back at you and adjusted his waist
24 after he went over the six-foot fence did you

1 fire your weapon, correct?

2 A. That wasn't the motion. It was -- he
3 may have just laid on the ground getting up,
4 see his hands at that point. He is already up.
5 Now he is readjusting his waistband.

6 Q. So you didn't feel threatened by him,
7 and you never fired at him at that point,
8 correct?

9 A. At that moment, no.

10 Q. Officer Ternand, so at that point that
11 Dakota Bright went over the six-foot fence and
12 then stumbled, you were probably about 30 or 40
13 feet from him, correct?

14 A. Are you saying after he stumbled
15 or --

16 Q. Yeah. After he landed on the ground,
17 stumbled and got up, you were probably like 30,
18 40 feet from him, correct?

19 A. Probably further than that. Maybe 50,
20 60 feet.

21 Q. Officer Ternand, there was a civil
22 suit filed regarding this case, correct?

23 A. Yes.

24 Q. And you gave a deposition in that

1 case?

2 A. Yes.

3 Q. You swore to tell the truth in that
4 deposition, correct?

5 A. Yes.

6 Q. And at that deposition, were you asked
7 these questions and did you give these answers?

8 MR. THOMPSON: Can I get a --

9 MR. FIEWEGER: I'm sorry, page 65.

10 MR. THOMPSON: One moment. What line?

11 MR. FIEWEGER: Starting with line 16. It's
12 a little hard to read the lines.

13 MR. THOMPSON: Okay. I'm with you.

14 BY MR. FIEWEGER:

15 Q. Were you asked these questions and did
16 you give these answers.

17 "So, at that point after
18 he hits, goes over this
19 five to six-foot fence,
20 approximately how many
21 feet are you from him,
22 standing from him?

23 You mean as he was going
24 over the fence?

1 No. After he goes over
2 the fence and falls to
3 the ground, how many
4 feet are you standing
5 from him?

6 We're talking the tall
7 fence?

8 Uh-huh. And like I said
9 I'm probably guessing
10 maybe 30, 30 feet. All
11 right 40 feet."

12 Were you asked those questions
13 and did you give those answers?

14 MR. THOMPSON: I have an objection, your
15 Honor. That that's not impeaching.

16 HEARING OFFICER WOOD: Why isn't it?

17 MR. THOMPSON: Well, because --

18 HEARING OFFICER WOOD: It is an
19 inconsistent statement. Sounds like
20 impeachment to me.

21 MR. THOMPSON: It is an approximation. And
22 it's not -- it is on a collateral issue. It's
23 not a material issue here.

24 MR. FIEWEGER: We disagree that it's

1 collateral.

2 MR. THOMPSON: Well, we're talking about
3 approximation of 30 to 40 feet or 50 feet.
4 That's not materially different, ten feet.

5 HEARING OFFICER WOOD: It is still an
6 inconsistent statement that he gets to do. You
7 can argue it later.

8 MR. THOMPSON: Okay.

9 BY MR. FIEWEGER:

10 Q. So, Officer, you said that you had
11 holstered your gun, and then you climbed over
12 that four-foot fence, correct?

13 A. You're talking about this four-foot
14 fence?

15 Q. The four-foot fence between 6715 South
16 Indiana and 6719 South Indiana?

17 A. I did.

18 Q. Did you feel vulnerable or subject to
19 threat as you climbed over the fence?

20 A. Absolutely.

21 Q. You then climbed over the fence and
22 began running south through the yard at 6719
23 South Indiana, correct?

24 A. Very brief.

1 Q. Okay. And that's when you got to the
2 six-foot fence on the south side of that lot,
3 correct?

4 A. I really -- I mean I got to the
5 six-foot fence, but when I fired the shot, I
6 was -- I stopped abruptly. I never really got
7 to the fence. I was close to it.

8 Q. So you never tried to scale the
9 six-foot fence?

10 A. I never got the opportunity to go over
11 that fence.

12 Q. You never went over the fence,
13 correct?

14 A. Never went over it, no.

15 Q. Let me hand you a set of photographs
16 marked as Exhibit 3.

17 (WHEREUPON, said
18 document was marked as
19 Superintendent Exhibit
20 No. 3 for
21 Identification.)

22 And, your Honor, we will represent
23 for the record these are photographs that were
24 taken at the crime scene as part of the

1 investigation following the shooting, and these
2 were subject to the stipulation entered
3 before -- at our prehearing conference. There's
4 no objection to these.

5 HEARING OFFICER WOOD: Okay.

6 BY MR. FIEWEGER:

7 Q. Officer Ternand, I'd like you to turn
8 to the third page of this Exhibit No. 3, which
9 is marked at the bottom-right-hand corner SUP
10 000283. Do you see that?

11 A. That's correct, sir.

12 Q. So am I correct that that's a view of
13 the backyard at 6719 South Indiana, and that's
14 the roughly six-foot fence that's between that
15 lot and 6721?

16 A. Yes.

17 Q. Okay. If you turn to the next page,
18 page SUP 00285.

19 A. Okay.

20 Q. That's the same fence and lot from a
21 different angle, correct?

22 A. Yes.

23 Q. Going back to SUP 00283, there's a
24 tree on the right-hand side of that picture,

1 correct?

2 A. On which one?

3 Q. SUP 00283, the third page.

4 A. Yes, there is.

5 Q. And as you were chasing Dakota Bright,
6 you came to a stop -- there's also a barbecue
7 visible kind of on the left side of that
8 picture, correct?

9 A. There's a barbecue.

10 Q. You came to a stop basically between a
11 barbecue and tree, correct?

12 A. I came to a stop as I fired the shot.

13 Q. Basically between that barbecue and
14 that tree, correct?

15 A. Somewhere in that area, yes.

16 Q. I'm not trying to argue. I just want
17 to confirm my understanding. Somewhere in that
18 area. In fact, you were standing between the
19 barbecue and the tree, correct?

20 A. My body would be positioned in between
21 those two, yeah.

22 Q. From that picture, it would look to me
23 there's probably no more than five feet between
24 that tree and that barbecue; would that be

1 correct?

2 A. I would agree with that estimation.

3 Q. Now, as you were chasing Dakota Bright
4 after he got up and stumbled over the six-foot
5 fence, he continued to run south, correct?

6 A. That's correct.

7 Q. And he climbed over the next fence,
8 that four-foot fence, correct?

9 A. That's correct.

10 Q. And that would be the fence between
11 6721 and 6725 --

12 A. That's correct.

13 Q. -- South Indiana?

14 A. That's correct.

15 Q. And then he continued to run south
16 through the lot at 6725 South Indiana when he
17 got to another four-foot fence, correct?

18 A. That's correct.

19 Q. And he went over that fence as well,
20 correct?

21 A. That's correct.

22 Q. At that point after he climbed over
23 that four-foot fence, he stumbled, correct?

24 A. Which one?

1 Q. The four-foot fence between 6725 and
2 6727.

3 A. Just took a quick stumble, yeah.

4 Q. And he hesitated for a second?

5 A. He actually stopped.

6 Q. And he looked back at you over his
7 right shoulder?

8 A. Well, reaching his right hand to the
9 left side.

10 Q. And he looked back at you over his
11 right shoulder, correct?

12 A. Yes.

13 HEARING OFFICER WOOD: I'm sorry. Where
14 was the stumble? You're looking at Exhibit 2?

15 MR. FIEWEGER: If you'll look at Exhibit 2.

16 HEARING OFFICER WOOD: I just want to
17 clarify for the record. 6721.

18 MR. FIEWEGER: 6727, but a he's gone over
19 the four-foot fence.

20 HEARING OFFICER WOOD: Thank you.

21 BY MR. FIEWEGER:

22 Q. While he was running, you were yelling
23 for him to stop?

24 A. I was yelling for him to drop the gun,

1 stop, drop the gun, police.

2 Q. You identified yourself as a police
3 officer, correct?

4 A. Correct.

5 Q. You were yelling at him to stop,
6 correct?

7 A. I was yelling at him to drop the gun.

8 Q. And to drop the gun, correct?

9 A. Yes.

10 Q. And you were yelling for him to stop?

11 A. Correct.

12 Q. As he stumbled and hesitated and
13 starting to turn, you could see his hands
14 briefly at that point, correct?

15 A. What do you mean?

16 Q. Let me back up. Sorry to confuse you.

17 He is in the back lot at 6727 South
18 Indiana, correct?

19 A. Correct.

20 Q. That's the point where he stumbles and
21 he hesitates, correct?

22 A. That's where he stops, as if he was
23 cornered.

24 Q. So if he had stopped, was it possible

1 that he was complying with your directive to
2 stop at that point?

3 A. No, because he did the opposite.
4 Instead of raising his hands up, he put his
5 hands out of sight and turned towards me.

6 Q. You had asked him to drop the gun,
7 correct?

8 A. Correct.

9 Q. If he were going to drop the gun, he'd
10 have to pull it out to drop it, correct?

11 A. I don't think that's how you would do
12 it, but...

13 Q. He couldn't drop the gun -- if, in
14 fact, he had a gun in his waistband, he
15 couldn't drop the gun without going to his
16 waistband with his hands, correct?

17 A. I've never seen someone give up like
18 that. Usually guys give up with their hands up
19 in the air.

20 Q. But if he were going -- if he had a
21 gun in his waistband, and he were going to drop
22 it, he would have to go to his waistband and
23 grab it to drop it, correct?

24 A. Are you saying hypothetically if he --

1 to draw his weapon -- I mean, not a smart move
2 to do that. Why would you draw your weapon?

3 Q. You would have to pull your weapon out
4 of your waistband in order to drop it, correct?

5 A. I guess. But I wouldn't -- I mean to
6 give up most guys put their hands up in the
7 air.

8 Q. That's all a hypothetical, correct?
9 Because Dakota Bright didn't have a weapon,
10 correct?

11 A. He had a gun, yes.

12 Q. Not at that point, right?

13 A. Not at that exact moment. No, I
14 believed he had a gun.

15 Q. But you would agree he would have
16 known he didn't have a gun, right?

17 MR. GRACE: Objection. He can't testify
18 to what Dakota Bright knew or didn't know.
19 It's all speculative and hypothetical.

20 HEARING OFFICER WOOD: Well, we're talking
21 in the hypothetical. You were still in the
22 hypothetical?

23 MR. FIEWEGER: No, I just asked him
24 if -- withdraw the question.

1 HEARING OFFICER WOOD: Okay.

2 BY MR. FIEWEGER:

3 Q. At that point you later learned that
4 Dakota Bright had already ditched the gun,
5 correct?

6 A. I did.

7 Q. And so at that point, Dakota Bright
8 did not have a gun, correct?

9 A. At the point I believed he had the
10 gun, the last point, yes.

11 Q. And it would stand to reason that
12 somebody who ditched a gun would realize that
13 they ditched the gun, correct?

14 MR. THOMPSON: Objection, your Honor. That
15 calls for speculation.

16 HEARING OFFICER WOOD: Yeah, I think you're
17 trying to ask him to speculate about what he --

18 MR. FIEWEGER: I'll move on. That's fine.

19 HEARING OFFICER WOOD: Okay.

20 BY MR. FIEWEGER:

21 Q. So as you came to a stop in the
22 south -- in the backyard of 6719 South Indiana,
23 you had your gun drawn, correct?

24 A. I had my weapon drawn -- I had my

1 weapon in my hand. As he was reaching into his
2 left side and turning towards me, I was still
3 running. I reacted quick and punched out and
4 fired a shot simultaneously.

5 Q. But as you reacted quickly and punched
6 out that shot, you used your sights on your
7 gun, didn't you?

8 A. I just reacted. I just punched out.

9 Q. You used your sights, correct? You
10 sighted your gun?

11 A. There's no way. I just punched very
12 quickly, just in the general direction.

13 Q. Officer Ternand, after this event,
14 there was a tactical response report prepared,
15 correct?

16 A. Yes.

17 Q. And you prepared that report?

18 A. Yes.

19 Q. And your sergeant assisted you -- your
20 sergeant supervised you in preparing that
21 report, correct?

22 A. Along with, I believe, Eddie Johnson.

23 Q. And you knew that everybody was going
24 to be reviewing this report, and it was

1 important to be accurate in it, correct?

2 MR. THOMPSON: It's a compound question.

3 BY MR. FIEWEGER:

4 Q. You realized that your supervisors
5 were going to review this report, correct?

6 A. Yes.

7 Q. And therefore you realized it was
8 important to be as accurate as possible when
9 you completed this report, correct?

10 A. Yes.

11 Q. Officer Ternand, I've handed you a
12 document that's the tactical response report,
13 and that's the report that was prepared
14 regarding this incident, correct?

15 A. Yes.

16 Q. Were you involved in preparing this
17 report?

18 A. I had a role in preparing it, yes.

19 Q. And this is the report you wanted to
20 make sure was as accurate as possible, correct?

21 A. Yes.

22 Q. Take a look at box 65, down towards
23 the bottom-right-hand corner. Did member use
24 sights, and it's marked yes.

1 MR. GRACE: Judge, I got to object. TRR,
2 tactical response reports, are not prepared by
3 the officer, they are prepared by the OCI, on
4 call in charge.

5 HEARING OFFICER WOOD: Then he can say
6 that. Then he can explain it.

7 MR. GRACE: Okay. But it's improper
8 impeachment, your Honor. I think it is. He is
9 trying to impeach him with a document he didn't
10 prepare. Maybe one he reviewed but not one he
11 prepared.

12 HEARING OFFICER WOOD: But he can ask him.

13 MR. GRACE: Okay.

14 BY MR. FIEWEGER:

15 Q. Okay. So, Officer Ternand, you've
16 seen this report, correct?

17 A. I had seen the report.

18 Q. Regardless of whether or not you
19 prepared it, you reviewed it to make sure it
20 was accurate, correct?

21 A. Yeah.

22 Q. Because, in fact, you are the only
23 person involved in this shooting who could
24 answer that question as to whether or not the

1 officer used his sights, correct?

2 A. These are little check boxes.

3 Q. Okay. And that little check box, did
4 member use sights, and it's checked yes,
5 correct?

6 A. It is checked yes, but it's not right.

7 MR. FIEWEGER: Your Honor, can we take a
8 five-minute break?

9 HEARING OFFICER WOOD: Any objection?

10 MR. THOMPSON: No objection.

11 HEARING OFFICER WOOD: Okay. Witness,
12 please take your microphone off before you pull
13 it away.

14 (Recess.)

15 HEARING OFFICER WOOD: We are back on the
16 record for the matter of charges against
17 Brandon Ternand, case number 17 BP 2940. We
18 are going to continue with the adverse
19 testimony of Officer Ternand by the
20 Superintendent.

21 BY MR. FIEWEGER:

22 Q. So, Officer Ternand, you had told us
23 after Dakota Bright climbed over -- I believe
24 it was the fourth fence and jumped into the

1 yard, he stumbled, correct?

2 A. Briefly, yes.

3 Q. And he hesitated for a second?

4 A. He stopped, yes.

5 Q. Did he stop or did he hesitate?

6 A. Kind of the same thing.

7 Q. No difference in your mind?

8 A. Stopped, hesitate, very similar.

9 Q. And after he stumbled, he began to
10 turn and look back at you over his right
11 shoulder, correct?

12 A. No, first he reached. This is all a
13 matter of seconds. But he reached to that left
14 side where I saw him place that handgun and
15 then he turned towards me.

16 Q. So and he turned towards -- turned
17 looking at you over his right shoulder?

18 A. Correct.

19 Q. And at that point, as he turned toward
20 you looking at you, you could see his hands
21 briefly, correct?

22 A. When he turned towards me?

23 Q. As he looked towards you over his
24 right shoulder, could you see his hands briefly

1 at that moment?

2 A. When he turned toward me, no.

3 Q. Yes. Jim, again, at the deposition,
4 page 74, lines 20 through 23.

5 Again, Officer Ternand, you gave
6 a deposition regarding the incidents involved
7 on November 8th, 2012, correct?

8 A. Yes.

9 Q. At that deposition were you asked this
10 question and did you give this answer.

11 "For the record, he
12 looked over your right
13 shoulder, correct?
14 At that point, when he
15 looks back, I could see
16 his hands briefly.

17 Were you asked that question and
18 did you give that answer?

19 A. I have to see it. What --

20 Q. Sure. Again, this is page 74.

21 A. What is it in reference to?

22 Q. Line 20 through 23.

23 For the record, he
24 looked over your (sic)

1 right shoulder.

2 At that point when he
3 looks back, I could see
4 his hands briefly.

5 My question, Officer, were you
6 asked that question and did you give that
7 answer?

8 A. I can see his hand briefly before he
9 reaches. I saw -- yeah.

10 Q. As he was looking back at you?

11 A. Right, I understand it. I saw his
12 right hand, and I saw it go out of sight to his
13 left side.

14 Q. After he looked back at you, then he
15 turned away, and at that point his right hand
16 went to his left side, correct?

17 A. No. When his left hand is briefly
18 there quicker, then his right hand went to the
19 left side also. Then he turned towards me.

20 Q. And his hands went towards his
21 waistband as he looked away from you again,
22 correct?

23 A. Would be looking towards me.

24 Q. Let's back up. He looked briefly

1 towards you over his right shoulder, correct?

2 MR. THOMPSON: I'm going to object to this
3 line of questioning. It's been asked and
4 answered now.

5 HEARING OFFICER WOOD: I don't think it's
6 clear for the record.

7 MR. FIEWEGER: I'm backing up, because I
8 want to make sure I get the sequence clear.

9 HEARING OFFICER WOOD: I would like to get
10 some clarification as well.

11 BY MR. FIEWEGER:

12 Q. Backing up, he stumbled and stopped or
13 hesitated, and then he looked back at you over
14 his right shoulder, correct?

15 A. You are saying immediately after the
16 stumble?

17 Q. Yes. After he hesitated or after he
18 stopped.

19 A. That was just very brief. You can see
20 his hands. That's when he takes his left hand
21 and then his right hand to the left side where
22 I believe the gun was and then he turned
23 towards me.

24 Q. So after turning over his right

1 shoulder and looking at you, then he looked
2 away, away from you, and his hand moved toward
3 his waistband area, right?

4 A. Correct.

5 Q. And then he began turning back to his
6 right so he would begin turning back to where
7 he is facing you, correct?

8 A. He would be turning towards, not back.
9 Towards me.

10 Q. So he looked away, and then he began
11 to look back towards you over his right
12 shoulder again, correct?

13 A. While holding his left side.

14 Q. So he is beginning to turn towards you
15 so he would begin to face towards you?

16 A. Yes.

17 Q. Now, again, at that point, you're
18 standing between the barbecue and the tree in
19 the backyard at 6719 South Indiana, right?

20 A. Actually kind of in motion.

21 Q. But you had your gun in your right
22 hand, correct?

23 A. Correct.

24 Q. And your right hand was extended with

1 your left hand bracing it next to it, right?

2 A. Yeah.

3 Q. And that's as he is turning towards
4 you?

5 A. Yes.

6 Q. At that point, you were the only
7 officer in those backyards on the 6700 block of
8 South Indiana?

9 A. I was the only one in those yards.
10 Bruno was in the alley.

11 Q. You could know see where Officer Bruno
12 was?

13 A. No, but I knew he was in the alley
14 though.

15 Q. You knew he was in the alley, but you
16 couldn't see where he was, correct?

17 A. His precise location, no.

18 Q. You couldn't see where Officer Sledge
19 was?

20 A. I had an idea.

21 Q. You had an idea where he was, but you
22 could not see him?

23 A. I could not see him.

24 Q. You didn't know precisely where he

1 was?

2 A. Precise location, no.

3 Q. You didn't know where Officer Razo
4 was?

5 A. Like I said, I had a general area
6 where he was, but not precisely.

7 Q. You couldn't see him, right?

8 A. No, I could not.

9 Q. And you couldn't identify on Exhibit 1
10 where he was when you fired your shot, correct?

11 A. No, I couldn't.

12 Q. Same is true for Officer Bruno and
13 Sledge, you couldn't identify on Exhibit 1
14 where they were when you fired your shot,
15 right?

16 A. You are saying to -- precise. I can
17 maybe give you a very large range of where they
18 would be.

19 Q. So Officer Bruno would be somewhere in
20 that alley that's parallel to Prairie and
21 Indiana, right?

22 A. Correct.

23 HEARING OFFICER WOOD: Can you use the
24 clicker?

1 MR. FIEWEGER: Sure.

2 BY MR. FIEWEGER:

3 Q. Officer Bruno would be somewhere in
4 this alley that's parallel to Indiana and
5 Prairie?

6 A. Yeah, correct.

7 Q. Where was Officer Sledge?

8 A. I believe he was on Indiana.

9 Q. So he is somewhere on Indiana south of
10 the alley -- south of the alley that's parallel
11 to Marquette?

12 A. I was thinking west of -- sorry. I'm
13 confused. I'm thinking west of the yards.

14 Q. Okay. So he'd be west of the
15 backyards, because he is on Indiana somewhere?

16 A. Yes.

17 Q. And he would be somewhere south of
18 this alley that's parallel to Marquette?

19 A. Yes.

20 Q. But you can't say with any more
21 specificity where in that area?

22 A. No, I can just give you the general
23 area.

24 Q. Where was Officer Razo?

1 A. He was pulling the car around, so he
2 was somewhere -- probably somewhere in this
3 area.

4 Q. In an area that's south of the lot
5 shown on Exhibit 1, so it's not depicted on
6 Exhibit 1?

7 A. Yeah, I don't know his route, but
8 somewhere in there.

9 Q. Do you know how he got to that area?

10 A. I imagine he was in his vehicle.

11 Q. Do you know what streets he went down?

12 A. No, I don't.

13 Q. So you said that Dakota Bright went to
14 his waistband and began to turn and look back
15 at you, correct?

16 A. That's correct.

17 Q. And that's the point where you fired
18 your weapon?

19 A. That's correct.

20 Q. You only fired your weapon once,
21 correct?

22 A. That's correct.

23 Q. And Dakota Bright dropped immediately
24 after you fired your weapon, correct?

1 A. That's correct.

2 Q. But you weren't sure whether or not
3 you hit him?

4 A. I was not sure.

5 Q. So you stayed with your gun drawn
6 until Officer Bruno came out of the alley and
7 into the backyard where Dakota Bright was
8 located, correct?

9 A. Correct.

10 Q. And Officer Bruno then placed
11 handcuffs on Dakota Bright?

12 A. Yes.

13 Q. And at that point is when you let your
14 gun down?

15 A. I believe so, yes.

16 Q. Now, at that point, Officer Bruno
17 searched Dakota Bright, correct?

18 A. Yes.

19 Q. And he wasn't able to locate any
20 weapon, correct?

21 A. That's correct.

22 Q. You then went from the yard that you
23 were located, and you joined Officer Bruno in
24 the yard where Dakota Bright was located,

1 correct?

2 A. Yes.

3 Q. Take a look at Exhibit No. 3, which
4 are the pictures. You saw Dakota Bright lying
5 on the ground in the backyard after you shot
6 him, correct?

7 A. Very briefly.

8 Q. Turn to the page that's marked SUP
9 00305. That's a picture of Dakota Bright?

10 A. Hold on.

11 Q. Officer, it's this one.

12 A. Yeah, I got it.

13 Q. That's a picture of Dakota Bright,
14 correct?

15 A. Yes.

16 Q. And that accurately depicts him as he
17 was lying in the backyard after you shot him,
18 correct?

19 A. Are you talking about moments after
20 or -- because they removed his hood here, kind
21 of adjusted his body.

22 Q. Is that an accurate depiction of how
23 Dakota Bright was lying when you saw him after
24 you shot him?

1 A. No, I mean he was laying on the
2 ground, but I don't know why his hood's off. I
3 really -- I don't remember specifically. But I
4 do remember his hood was still on.

5 Q. His hood was still on when you first
6 observed him?

7 A. Yeah.

8 Q. Take a look at the second page of the
9 exhibit, page SUP 00282. 000282. Do you see
10 that? Looks like this.

11 A. All right.

12 Q. So, Officer, you have page SUP 000282?

13 A. Yeah.

14 Q. Is that a picture of the hoodie that
15 Dakota Bright was wearing when you shot him?

16 A. This was the one underneath. I didn't
17 search his clothing. He had, I believe, a red
18 hoodie on. If that's the one underneath.

19 Q. Do you recall seeing this hoodie on
20 Dakota Bright when you entered the backyard and
21 saw him on the ground?

22 A. He had a hood on. That's what I
23 remember.

24 Q. Do you recall it being this hood, the

1 hood that's depicted in SUP 000282?

2 A. I really don't remember a lot of this
3 afterwards, to be honest with you. It was
4 traumatic.

5 Q. So after Officer Bruno had searched
6 Dakota Bright, and there was no weapon found,
7 you informed your sergeant that you had
8 observed a gun on Dakota Bright, correct?

9 A. Yes.

10 Q. And you told him what path you had
11 followed in chasing him, correct?

12 A. I believe that's who I told.

13 Q. And shortly after the shooting, other
14 members of the police department arrived on the
15 scene, correct?

16 A. Yes.

17 Q. And that was because there was a call
18 made that shots had been fired, right?

19 A. I didn't call out on the radio shots
20 fired by the police.

21 Q. You made that call?

22 A. Yes, I did.

23 Q. You made that call on the radio you
24 had with you during the chase?

1 A. After I fired the shot, I called it
2 out, yes.

3 Q. So other officers arrived on the scene
4 conducted a search of the area -- or of the
5 path where you chased Dakota Bright, right?

6 A. That's correct.

7 Q. It's your understanding during that
8 search they were able to locate a weapon,
9 right?

10 A. Yes.

11 Q. And that weapon was located roughly at
12 the corner -- in the lot that's at the corner
13 of the alley that's parallel to Marquette and
14 Indiana? So it would be located roughly in
15 this area here, correct?

16 A. Yeah, right up against the building
17 right there.

18 Q. Right around there?

19 A. Into the yard. No, towards --

20 Q. Okay. So did you observe the weapon
21 when it was located?

22 A. Briefly, yeah.

23 Q. So you actually saw the weapon,
24 correct?

1 A. Laying there, yes.

2 Q. I meant to do this before. We're up
3 to number five. Could you make a five on
4 Exhibit No. 1 where you were located when you
5 fired the shot at Dakota Bright?

6 A. When I fired my weapon?

7 Q. Yes. And, Officer, just for your
8 reference, this right here is the six-foot
9 fence.

10 A. You want me to put a five?

11 Q. Yeah, put a five there.

12 For the record, Officer Ternand
13 has made a red circle with a five inside it in
14 the back -- in the backyard of 6719 South
15 Indiana.

16 Could you show us also with a
17 number six where Dakota Bright was located when
18 you shot him?

19 For reference this -- it is
20 obscured by a treat, but that's 6727.

21 A. It's obstructed. And this is six?

22 Q. Yes, six.

23 For the record, Officer Ternand
24 made a circle with a six in it indicating where

1 Dakota Bright was located when he was shot.

2 Finally, Officer, since you did
3 see the gun when it was recovered, could you
4 put a seven where your recollection the gun was
5 located when it was recovered?

6 A. There's a building like L-shape, I
7 believe. This is where the building ends. I
8 can't tell. I just want to put --

9 Q. Officer, if it might help, take a look
10 at Exhibit No. 3, SUP 000353.

11 A. I got it. Yeah.

12 Q. Does that indicate the location of the
13 gun when it was recovered after the search?

14 A. Yes.

15 Q. Can you mark your understanding on
16 Exhibit No. 1 the location of what's depicted
17 in SUP 000353?

18 A. I think this is the -- I'm just trying
19 to put it where the --

20 Q. I understand.

21 A. What do you want me to mark, what
22 number?

23 Q. We're up to seven. Okay.

24 Officer, this incident was not the

1 first time you fired your weapon in the line of
2 duty, correct?

3 A. That's correct.

4 Q. Actually, a few months before this
5 incident you had encountered an individual who
6 engaged in a drive-by shooting, right?

7 MR. THOMPSON: Just object to the relevance
8 of any prior arrests or use of the weapon,
9 because it's not relevant to this particular
10 matter.

11 HEARING OFFICER WOOD: Response?

12 MR. FIEWEGER: Your Honor, we believe that
13 the manner which he discharged his weapon at
14 this prior incident where he is under threat is
15 inconsistent with the manner that he fired his
16 weapon in this incident where he also claims to
17 have been under threat, and our expert will use
18 this information to inform his opinion.

19 MR. THOMPSON: That's not what he is being
20 charged with here today. And he wasn't charged
21 with anything on any prior incident. So I
22 don't know how that would be relevant.

23 MR. FIEWEGER: We're not suggesting there
24 was anything improper about what he did at the

1 prior incident.

2 MR. THOMPSON: Again, if we are going to
3 compare a prior shooting, then we have got to
4 get all of the facts relative to that prior
5 shooting to set it in proper context as to why
6 the officer discharged his weapon in that
7 particular shooting.

8 HEARING OFFICER WOOD: He gets to ask. You
9 get to ask. Go ahead.

10 BY MR. FIEWEGER:

11 Q. So, Officer, you had had a prior
12 incident where you encountered an individual
13 who participated in a drive-by shooting,
14 correct?

15 A. I did.

16 Q. And this person fired his weapon and
17 hit a woman in the head, correct?

18 A. He did.

19 Q. And you encountered him shortly after
20 that, correct?

21 A. I don't know how specific I'm supposed
22 to go into another case. Something might be
23 pending.

24 Q. Did you observe the actual drive-by

1 shooting?

2 A. Yes, we were there.

3 Q. So you saw him fire his weapon at this
4 point, correct?

5 A. I didn't -- we heard it, and we
6 thought -- we thought we were getting shot at
7 as well.

8 Q. Then you responded to what you heard,
9 and you confronted the individual who fired the
10 weapon, correct?

11 A. That's correct.

12 Q. And he got out of his vehicle and
13 pulled his weapon as if to fire at you?

14 A. Yeah, it either malfunctioned or
15 jammed.

16 Q. So fortunately --

17 A. I was lucky that I was able to get my
18 weapon out and fire a few shots at him.

19 Q. Fortunately, his weapon didn't work,
20 and although he tried to shoot at you, you
21 weren't hit?

22 A. I'm sitting here, so lucky, yes.

23 Q. You responded by firing your weapon at
24 him, correct?

1 A. Yes.

2 Q. You fired three or four times,
3 correct?

4 A. See, I don't remember the exact amount
5 of shots.

6 Q. You fired three or four times,
7 correct?

8 MR. GRACE: Objection. Asked and answered.

9 HEARING OFFICER WOOD: I think he said he
10 wasn't sure.

11 THE WITNESS: I wasn't sure.

12 BY MR. FIEWEGER:

13 Q. You gave a deposition in relation to
14 the incident that's at issue today, correct?

15 A. Yes.

16 Q. At that deposition, you were asked
17 questions about this prior incident, correct?

18 A. I guess. I'd have to see it, but...

19 Q. Do you think if you reviewed those
20 questions, it might help your -- refresh your
21 recollection about how many times you fired the
22 weapon at that prior incident?

23 A. Yes, that would help.

24 Q. Let me show you your deposition on

1 page 79, and if you could review lines 6
2 through 18.

3 A. Okay. Yeah, that helps. Three, four.
4 I mean it sounds accurate. I just don't want
5 to say an amount. Three or four is a
6 good -- unless I actually saw the case report
7 to say how many I actually fired, but from my
8 best recollection, it's three to four.

9 Q. So having reviewed the transcript of
10 your deposition, is your best recollection that
11 you fired a weapon three or four times in that
12 incident?

13 A. That's correct.

14 Q. So more than just once?

15 A. Right, because I didn't hit the guy.
16 He was still moving and running.

17 MR. FIEWEGER: I think that's all I have.

18 HEARING OFFICER WOOD: Do you want to do
19 some questioning now?

20 MR. THOMPSON: We can come back after
21 lunch. I don't know what time it is.

22 HEARING OFFICER WOOD: It is 12:16.

23 MR. THOMPSON: I think it's fine to take a
24 break.

1 HEARING OFFICER WOOD: Do you want to come
2 back at 1:00 or more time?

3 MR. THOMPSON: That's fine for us.

4 MR. FIEWEGER: As I indicated previously,
5 we had made plans to call Cherise Jackson if
6 necessary. As expected, she did not comply
7 with the subpoena. So our other witness is
8 going to be our expert witness who we indicated
9 we will call next week. So we're not in a
10 position to rest, but we don't have any more
11 witnesses to call this afternoon, and we have
12 no objection to Respondent calling witnesses if
13 they can.

14 HEARING OFFICER WOOD: Why don't --

15 MR. THOMPSON: If I might on that point, so
16 today -- counsel and I did talk about
17 scheduling and witnesses and so forth. So I do
18 have available Officer Ternand's partner,
19 Officer Razo, who is here. I have Officer
20 Bruno, who is here. I have Officer Lara, who
21 is here. And I'm also expecting one character
22 witness this afternoon. And I don't have any
23 objection to proceeding out of order and
24 calling as many witnesses that we can get in

1 before the end of the day.

2 HEARING OFFICER WOOD: That's great. I
3 appreciate that. You guys can work this out,
4 too, whatever challenges you have, but we'll
5 come back -- I'll give you till 1:15 so you
6 will have time to work it out.

7 (WHEREUPON, a luncheon
8 break was had.)

9 HEARING OFFICER WOOD: We're going back on
10 the record in the matter of charges against
11 Brandon Ternand, case number 17 BP 2940. I
12 believe that counsel for Respondent is going to
13 continue some examination of Officer Ternand.

14 MR. THOMPSON: That's correct.

15 HEARING OFFICER WOOD: Officer Ternand,
16 please return to the witness stand. And I
17 guess you need to reclip the microphone.

18 CROSS-EXAMINATION

19 BY MR. THOMPSON:

20 Q. Brandon, you were asked to provide an
21 account of the circumstances relative to this
22 police-involved shooting on the date of the
23 occurrence, correct?

24 A. Yes.

1 Q. And approximately one year later you
2 were summoned to provide a statement in the
3 form of a deposition on October 9th, 2013,
4 correct?

5 A. Yes.

6 Q. And subsequent to that, you were
7 summoned by IPRA to provide a statement on
8 March 4th, 2016, three years later, right?

9 A. Yes.

10 Q. And you were summoned to IPRA on July
11 20th, 2016, to provide a statement of the
12 events, which was four years after the
13 occurrence, correct?

14 A. That's correct.

15 Q. And so today you're here to provide
16 your best account of events six years following
17 the incident, correct?

18 A. That's correct.

19 Q. I'd like to draw your attention,
20 Brandon, to what was previously marked as
21 Exhibit No. 1, which is the Google overhead map
22 of the area of 6727 South Indiana Avenue,
23 correct?

24 A. Correct.

1 Q. You see that, right?

2 A. Yes.

3 Q. And you understand that that involves
4 the area of the pursuit and the police-involved
5 shooting, right?

6 A. Yes.

7 Q. I want to try, Brandon, to give you an
8 opportunity to clearly think about this so we
9 get it right. I want to direct your attention
10 to when you first saw the individual we now
11 know as Dakota Bright. Okay? He entered the
12 alley; is that fair?

13 A. That is correct.

14 Q. Did he enter the alley from the
15 street, that being Indiana, or did he enter the
16 alley from the sidewalk adjacent to the street
17 Indiana Avenue, to the best of your
18 recollection?

19 HEARING OFFICER WOOD: Is it possible for
20 you to use the clicker? Thank you.

21 BY MR. THOMPSON:

22 Q. To the best of your recollection, when
23 the subject entered the alley, did he enter the
24 alley off the street, or did he enter the alley

1 off the sidewalk?

2 MR. FIEWEGER: I object as been asked and
3 answered.

4 MR. THOMPSON: It's my first question.

5 MR. FIEWEGER: He testified on my
6 examination.

7 HEARING OFFICER WOOD: Are you going to go
8 through it with him again and then again in
9 your case in chief? Because I don't think that
10 would be necessary. That's very duplicative.

11 If there's something you want to
12 clarify to rehabilitate him based on that
13 testimony, that's fine. But let's not
14 duplicate what he already said.

15 MR. THOMPSON: I agree. That's not my
16 intention. It's just for these few questions.
17 Okay? For clarification or rehabilitation,
18 however you'd like to describe it. Okay?

19 HEARING OFFICER WOOD: Okay.

20 BY MR. THOMPSON:

21 Q. Did the subject enter off the street
22 into the mouth of the alley here, or did he
23 enter off of the sidewalk into the mouth of the
24 alley, to the best of your recollection,

1 Officer Ternand?

2 A. He entered off of the sidewalk.

3 Q. Can you get the marker. Can you
4 circle the area where the subject entered the
5 alley? Can you put an eight there?

6 HEARING OFFICER WOOD: I'm actually
7 confused. Why is that different than the
8 initial mark that he put?

9 THE WITNESS: I actually thought this piece
10 of grass was this piece of grass. I'm sorry.
11 I just looked at the map.

12 HEARING OFFICER WOOD: This is the
13 rehabilitation. You need to make it clear this
14 is the rehabilitation, because I didn't
15 understand that.

16 MR. THOMPSON: I can clear that up.

17 BY MR. THOMPSON:

18 Q. Earlier when you were asked the
19 questions about where you first saw Dakota
20 Bright, you circled the area, and you put
21 number seven there, correct? I can't read that
22 number.

23 A. I think it's two.

24 Q. Correct?

1 A. Yes.

2 Q. Now, having had the opportunity to
3 think about this, Offer Ternand, is area number
4 two where you actually saw him for the first
5 time?

6 A. No, it's area number eight.

7 Q. Area number eight?

8 A. Right. I just confused that grass
9 patch right there.

10 Q. So you confused that grass patch with
11 this grass patch?

12 A. Yes.

13 Q. What you marked the area where your
14 vehicle was when you first saw Dakota Bright,
15 that's correct, right?

16 A. Yes.

17 Q. And when you first saw Dakota Bright,
18 you're traveling 15 to 20 miles an hour towards
19 him, correct?

20 A. Correct.

21 Q. What's the first thing that you
22 observe about Dakota Bright when he enters the
23 alley?

24 A. The red hoodie and red shoes.

1 Q. First thing is what he's wearing,
2 correct?

3 A. Correct.

4 Q. And also that there's a person
5 entering the alley, correct?

6 A. Right.

7 Q. Then what did you observe next?

8 A. I observed the handgun in his right
9 hand.

10 Q. So at that point, the car has moved
11 from this circled area, and it's continued to
12 close the distance to this area, correct?

13 A. That's correct.

14 Q. You lose sight of Dakota Bright near
15 that alley, correct? Or near the -- near what
16 you marked as eight, right?

17 A. Correct.

18 Q. Because he heads north on the
19 sidewalk?

20 A. Correct.

21 Q. But he took several steps north on
22 Indiana before you lost sight of him; is that
23 correct?

24 A. That's correct.

1 Q. And during that period of time, your
2 vehicle continued to close distance on him at
3 the rate of 15 to 20 miles per hour, correct?

4 A. That's correct.

5 Q. When officer -- when Dakota Bright
6 makes contact with you, whether it sees the
7 vehicle or he is looking directly at you,
8 that's the first opportunity Dakota Bright had
9 to raise his hand and drop the gun, correct?

10 A. That's correct.

11 Q. Did he raise his hand and drop the
12 gun?

13 A. No.

14 Q. He fled, correct?

15 A. Correct.

16 Q. So it was actually Dakota Bright that
17 escalated this situation, not the Chicago
18 Police Department; is that fair?

19 MR. FIEWEGER: Objection. Argumentative.

20 HEARING OFFICER WOOD: And you are leading.
21 Okay?

22 MR. THOMPSON: It's his witness. I'm on
23 cross.

24 HEARING OFFICER WOOD: But you are

1 rehabilitating him, right? This is the point,
2 this is what you're doing is rehabilitating
3 things.

4 He said in his examination you
5 have an opportunity to call him as your main
6 witness, which I expect you to do later. So I
7 don't know why you're leading him. The
8 objection is sustained. This should be
9 rehabilitation, not argumentative.

10 MR. THOMPSON: Okay. I'll change my
11 pattern of question.

12 BY MR. THOMPSON:

13 Q. Did Officer Razo accelerate his
14 vehicle northbound on Indiana when he entered
15 the street?

16 A. Yes.

17 Q. Did that close the distance
18 with -- between you and Dakota Bright?

19 A. Yes.

20 Q. If you could pick up the -- I'll do it
21 for you, Brandon. You can stay seated.

22 HEARING OFFICER WOOD: He is tethered. He
23 can't get up.

24 BY MR. THOMPSON:

1 Q. If you can look, Officer Ternand, at
2 Exhibit No. 34. Do you recognize that area?

3 (WHEREUPON, said
4 document was marked as
5 Respondent Exhibit No.
6 34 for Identification.)

7 A. Yes.

8 Q. Where is that? What's depicted in
9 that photograph?

10 A. That would be just north of the mouth
11 of the alley at Indiana.

12 Q. And what is significant about -- what,
13 if anything, is significant about this area?

14 A. That's where the firearm was
15 recovered.

16 Q. If I can direct your attention to
17 Exhibit 35. What's depicted in that
18 photograph?

19 (WHEREUPON, said
20 document was marked as
21 Respondent Exhibit No.
22 35 for Identification.)

23 A. That's Marquette looking eastbound.

24 Q. And when Officer Razo entered on

1 Marquette, did he accelerate?

2 A. Yes.

3 Q. Is that tree the area where the vacant
4 lot starts?

5 A. Yes.

6 Q. Did Officer Razo by accelerating his
7 vehicle close the distance on Dakota Bright?

8 A. Yes.

9 Q. Okay. Now, did you hear the radio
10 communication from Officer Razo to OEMC?

11 A. Yes.

12 Q. What was the first communication that
13 Officer Razo stated to OEMC relative to your
14 encounter with Dakota Bright?

15 A. He gave the description, and he said
16 that he was holding his left side.

17 Q. And is describing somebody as holding
18 their left side, is that common terminology in
19 the 3rd District?

20 A. It's common terminology in a lot of
21 parts of the City as a police officer.

22 Q. Is it common terminology in other
23 districts that you've worked at?

24 A. Yes.

1 Q. And what does holding left side mean,
2 Brandon?

3 A. You're giving the location of where
4 the firearm is.

5 Q. Did you ever abandon your team?

6 A. No.

7 Q. Do you utilize tactics in your team?

8 A. Yes.

9 Q. Did you utilize tactics in this
10 scenario?

11 A. Yes.

12 Q. What type of tactics did you utilize
13 in this scenario?

14 A. We basically tried to box in the
15 offender so that we could place him into
16 custody.

17 Q. Is that an everyday practice for the
18 tact team -- your tact team in the 3rd District
19 relative to apprehending a fleeing suspect?

20 A. Yeah. We almost do it on a daily
21 basis with fleeing suspects.

22 Q. What type of sights does your -- did
23 the weapon have that you were using that day,
24 Brandon?

1 A. It has a front sight and a rear sight,
2 which is two -- I guess you would describe it
3 as two pieces of metal that come up from the
4 rear of the weapon.

5 Q. And when you discharged your firearm
6 in the direction of Dakota Bright, did you use
7 both sights?

8 A. No. It would only -- because I
9 punched out, it would only be the front. The
10 rear and the front. I never had time to get a
11 sight picture and align it.

12 Q. If you were at the range, and you were
13 qualifying with your weapon, would you use both
14 sights?

15 A. I would.

16 Q. And you didn't use both sights in this
17 instance?

18 A. No.

19 Q. The TRR that was completed relative to
20 this incident, Brandon, when in relation to the
21 officer-involved shooting did that occur?

22 A. It was sometime that day afterwards.

23 Q. Were you assisted in the completing of
24 that report?

1 A. Yes.

2 Q. How many officers or supervisors were
3 involved in the completing of that report?

4 A. At least two or three. Three or more.

5 Q. Was that report completed in part by
6 you and in part by other officers?

7 A. Yes.

8 Q. Could you give us an estimation in
9 terms of time when you were describing earlier
10 that the subject, Dakota Bright, reached for
11 his left side while turning his head?

12 A. Less than a second.

13 Q. And how long after you saw him
14 reaching for his side and turning his head did
15 you fire?

16 A. As quick as I possibly could. Less
17 than a second.

18 Q. Do you remember the line of
19 questioning relative to Dakota Bright possibly
20 attempting to drop his firearm when you were
21 saying, stop, police, drop the gun, drop the
22 gun?

23 A. Yes.

24 Q. If an individual has a firearm

1 positioned on the left side of his body, what
2 hand would you expect that person to utilize if
3 they were going to drop a gun on the left side
4 of their body?

5 MR. FIEWEGER: Objection. Calls for
6 speculation.

7 HEARING OFFICER WOOD: Sustained.

8 BY MR. THOMPSON:

9 Q. In your experience, have you ever seen
10 a subject that was armed reach across his body
11 to drop a firearm?

12 A. No.

13 Q. In your experience as a police
14 officer, have you ever seen a subject reach
15 across his body to draw a weapon?

16 A. Yes.

17 Q. I want to direct your attention,
18 Officer Ternand, to the line of questioning
19 relative to the shooting that you were involved
20 in not less than six months prior to this
21 incident. Do you remember that line of
22 questioning?

23 A. Yes.

24 Q. In that instance, were you wearing the

1 same type of clothing that you were
2 wearing -- clothing that you were wearing in
3 this instance, namely your ballistics vest with
4 your CPD insignia broadcast on the front of
5 your vest and police on the back?

6 A. Yes.

7 Q. Did the subject have a firearm?

8 A. Yes.

9 Q. Did you believe the subject was
10 intending to use that firearm to cause great
11 bodily harm or death to you?

12 A. Yes.

13 Q. Why do you believe that?

14 A. Because he was pointing the gun at it,
15 manipulating it.

16 Q. Did you fire one time?

17 A. No, I fired multiple times.

18 Q. Did your first shot stop the
19 offender -- did your first shot cause the
20 offender to fall to the ground?

21 A. No, after I fired --

22 Q. Is that no?

23 A. No.

24 Q. Did your second shot cause the

1 offender to fall to the ground?

2 A. No.

3 Q. Did your third shot cause the offender
4 to fall to the ground?

5 A. No.

6 Q. In fact, after the third shot, the
7 offender was able to still flee from you; is
8 that correct?

9 A. That's correct.

10 Q. Now, in this particular instance
11 relative to Dakota Bright, the first time that
12 you discharged your firearm, did that cause the
13 subject to fall to the ground?

14 A. No.

15 Q. In this instance?

16 A. In Dakota Bright?

17 Q. In Dakota Bright's instance, did the
18 one shot you fired in this instant cause Dakota
19 Bright to fall to the ground?

20 A. Yes.

21 MR. THOMPSON: That's all I have from this
22 witness, Madam Hearing Officer.

23 HEARING OFFICER WOOD: Thank you. Anything
24 else?

1 MR. FIEWEGER: Just a couple of follow-up.

2 REDIRECT EXAMINATION

3 BY MR. FIEWEGER:

4 Q. Officer Ternand, you said in the prior
5 incident when you were confronted by the person
6 engaged in the drive-by shooting, in response
7 to Mr. Thompson's question, you said the first
8 shot did not stop that suspect, right?

9 A. That's correct.

10 Q. Your second shot did not stop that
11 suspect, right?

12 A. Correct.

13 Q. Your third shot did not stop that
14 suspect?

15 A. That's correct.

16 Q. You didn't fire and then wait to
17 determine whether or not you stopped him before
18 you fired your second shot, right?

19 A. As many shots I fired.

20 Q. My question is, did you fire your
21 first shot at that suspect and then wait to see
22 whether or not he had stopped moving or you had
23 somehow hit him before you fired your second
24 shot?

1 A. No, he was still standing.

2 Q. You didn't take a shot and wait to see
3 if that subdued him, you shot one, two, three,
4 four, one right after the other, because you're
5 taught that you are supposed to fire until you
6 subdue the threat, correct?

7 A. Yeah, until the threat is gone. The
8 threat was not gone.

9 Q. But you didn't fire once, stop, make
10 the determination that the threat is gone and
11 then fire a second time?

12 MR. THOMPSON: Objection. Asked and
13 answered.

14 MR. FIEWEGER: I don't think it's been
15 asked and answered.

16 HEARING OFFICER WOOD: I'm sorry. Read the
17 last two questions and answers.

18 (Said testimony was read
19 back.)

20 HEARING OFFICER WOOD: It does sound like
21 you asked it again. Unless you have another
22 question --

23 MR. FIEWEGER: No, if we've got an answer,
24 that's fine.

1 HEARING OFFICER WOOD: Anything else?

2 BY MR. FIEWEGER:

3 Q. You said that when you first
4 encountered Dakota at the mouth of the alley,
5 he just didn't raise his hands and surrender,
6 correct?

7 A. He did not.

8 Q. At that point, you hadn't identified
9 yourself as police, correct?

10 A. We were in an unmarked squad car with
11 police plates.

12 Q. But nobody called out to him, Police,
13 stop?

14 A. No, but he fled when he saw us.

15 Q. Nobody called out, Police, stop,
16 correct?

17 A. At that point, no.

18 MR. FIEWEGER: That's all I have.

19 MR. THOMPSON: Nothing further.

20 HEARING OFFICER WOOD: Thank you, Officer.
21 Take off the mic.

22 (Witness Excused.)

23 (Witness was duly

24 sworn.)

1 VICTOR RAZO,
2 called as a witness herein, after having been
3 first duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. GRACE:

7 Q. Could you state your name and spell it
8 for the record.

9 A. Yes, I can. Victor first name.
10 V-I-C-T-O-R. Razo. R-A-Z-O.

11 Q. Sir, where are you employed?

12 A. With the Chicago Police Department.

13 Q. What capacity do you work as a Chicago
14 Police Department?

15 A. I work as a detective.

16 Q. And what is your date of appointment?

17 A. July 9th, 2007.

18 Q. How long have you been a member of
19 CPD?

20 A. For just under 11 years.

21 Q. When were you promoted to detective?

22 A. Beginning of 2017, approximately a
23 year and a half ago.

24 Q. What's your current assignment?

1 A. I work in area south violent crimes.

2 Q. Prior to being assigned to area south,
3 what was your assignment and how long were you
4 so assigned?

5 A. Just prior to being assigned to area
6 south, I worked for the narcotic division for
7 approximately two periods from the November
8 2017 to the end of the year.

9 Q. That's unit 189, right?

10 A. Yes.

11 Q. Prior to that --

12 THE VIDEOGRAPHER: Off the record.

13 (Brief Pause.)

14 BY MR. THOMPSON:

15 Q. So you indicated you were in unit 189
16 narcotics. Prior to your assignment there,
17 where did you work?

18 A. Prior to that, I was assigned to the
19 4th District.

20 Q. What capacity?

21 A. As a tactical officer.

22 Q. About how long?

23 A. Approximately two years and a half.

24 Q. Prior to that, where did you work?

1 A. I worked in the 3rd District.

2 Q. In what capacity?

3 A. As a tactical officer.

4 Q. Would you agree that would take us
5 back to approximately the time that's the
6 discussion here today?

7 A. Yes.

8 Q. So you appear to have been a tact
9 officer for about six and a half years in the
10 3rd and 4th Districts; is that right?

11 A. Correct.

12 Q. Now, in November 2012, you were
13 working as a tact officer. What is the basic
14 assignment or comission of the tactical
15 officer?

16 A. Tactical officer's assigned to
17 districts usually respond to in-progress calls,
18 calls regarding gang activity, narcotic
19 activity, and in-progress calls.

20 Q. Who was your regular partner back in
21 2012?

22 A. Officer Ternand.

23 Q. How long had you and Officer Ternand
24 been partners?

1 A. Approximately four years.

2 Q. Now, the 3rd District, specifically
3 the area of Indiana and Marquette, did you and
4 Officer Ternand work in that beat together
5 November 2012?

6 A. Yes, we did.

7 Q. Describe what occurs in that area?

8 A. That area just as other parts of the
9 3rd District is known for having gang activity,
10 calls of shots fired and people with guns.

11 Q. Dangerous area?

12 A. Yes.

13 Q. Do you encounter gangs?

14 A. Yes.

15 Q. Would you encounter guns?

16 A. Yes.

17 Q. Violent crimes?

18 A. Yes.

19 Q. Shootings?

20 A. Yes.

21 Q. How often would you say you would
22 encounter a shooting?

23 A. A call of shots fired or person with a
24 gun is a call that could occur on a daily

1 basis.

2 Q. And with respect to murders in the 3rd
3 District, were you aware of the statistics back
4 in 2012?

5 A. Yes.

6 Q. What were they?

7 A. I don't recall the exact numbers, but
8 I know that in those years 3rd District was
9 amongst the leading districts in the City for
10 people shot in homicides.

11 Q. I'm going to take you back to the day
12 of the incident that's November 8th, 2012. Do
13 you remember that day?

14 A. Yes, I do.

15 Q. Do you recall your duty hours?

16 A. We were working day shift that day, so
17 sometime approximately 9:00 to 10:00 a.m. to
18 about 5:00 or 6:00 P.

19 Q. When you say we, who's the we we're
20 speaking of?

21 A. Myself and Officer Ternand and members
22 of the 363 tactical team.

23 Q. What was your matter of dress?

24 A. Civilian dress.

1 Q. And type of vehicle?

2 A. We were operating an unmarked Crown
3 Victoria vehicle.

4 Q. At some point around 2:30 in the
5 afternoon, you were at the location of Indiana
6 and Marquette. What brought you to that
7 location?

8 A. We responded to a call of a burglary
9 in progress.

10 Q. When you got there, what happened?

11 A. Upon arriving at that location, we
12 were able to determine that the call was not a
13 bona fide situation. That whoever called the
14 police had mistaken people who were movers as
15 burglars.

16 Q. And did any other units respond with
17 you and Brandon?

18 A. Yes, it was myself, Brandon and then
19 Officers Bruno and Sledge.

20 Q. And Officer Bruno and Sledge, were
21 they in a separate vehicle?

22 A. Yes, they were. We were working beat
23 363, and they were working 360 Charlie in a
24 separate vehicle.

1 Q. Were they also tactical officers?

2 A. Yes they were.

3 Q. On your same team?

4 A. Yes.

5 Q. After you cleared -- after you
6 confirmed that there was no police service
7 needed at that burglary call, what happened
8 next?

9 A. I proceeded drive away from that
10 location. I went westbound in the T alley
11 between Prairie and Indiana. And as I was
12 driving west, I got on the radio to give
13 dispatch a code for the job.

14 Q. What is that code that you're going to
15 give?

16 A. I gave that job 19 Paul.

17 Q. 19 Paul solves it all?

18 A. Yes.

19 Q. That means you are done with the job
20 you were responding to, correct?

21 A. Yes.

22 Q. When you got to that -- you were
23 driving westbound in the alley?

24 A. Yes.

1 Q. What, if anything, happened?

2 A. As I was continuing to drive westbound
3 and just finishing my OEMC dispatch to the
4 radio, I observed a male black wearing red
5 clothing step into the alley I was driving in.

6 Q. And so he was west of your location?

7 A. Yes.

8 Q. How fast do you think you were going?

9 A. At that time, probably traveling about
10 15 to 20 miles an hour.

11 Q. And I think you answered this. When
12 you first saw this person, what exactly was he
13 doing?

14 A. It appeared that he was coming from
15 the south on Indiana, and he took a step going
16 east into the T alley. Then he looked in my
17 direction, and quickly turned back north onto
18 Indiana. And at that point in time, I observed
19 what appeared to be a black handgun in his
20 right hand.

21 Q. Why did you believe you saw a black
22 handgun?

23 A. I'm familiar with what handguns look
24 like, and what I observed appeared to be

1 consistent with the barrel of a handgun.

2 Q. Before you fled north on Indiana, were
3 you able to make any determinations about his
4 dress?

5 A. Yes. I observed red clothing. I
6 believe it was a red jacket and red shoes.

7 Q. What does red mean to a tactical
8 officer in the 3rd District working Indiana and
9 Marquette?

10 A. Red is a very popular gang color.
11 It's consistent with the colors of the Black
12 Disciples, and in that area the faction of the
13 Black Disciples call themselves DOD, so
14 consistent with their gang colors.

15 Q. From Indiana to Prairie, how many
16 gangs do you think worked that area, back in
17 November of 2012?

18 A. In that particular area along
19 Marquette and Indiana, approximately two to
20 three gangs.

21 Q. Can you give us some of their names?

22 A. You had the Black Disciples, DODs,
23 which is Disciples of David. There was the
24 Black P Stones on 69th and Indiana. Their

1 nickname was Koda City. And I believe a small
2 faction of Gangster Disciples just west of
3 Indiana along Marquette.

4 Q. Did all these gangs get along with
5 each other?

6 A. No, they did not.

7 Q. Would you agree that there were a lot
8 of shootings back and forth?

9 A. I would agree that the gang conflicts
10 that occurred within the 3rd District were
11 usually consistent, and it resulted in
12 shootings and things of that nature.

13 Q. So you testified that you were
14 approaching him, and you would agree that you
15 are closing the distance on Dakota Bright
16 through that west alley, correct?

17 A. Yes.

18 Q. You testified you saw what you
19 believed to be a gun, correct?

20 A. Yes.

21 Q. So now we have a man standing at the
22 mouth of the alley in a gang-infested area,
23 correct?

24 A. Yes.

1 Q. He is dressed in red gang colors,
2 correct?

3 A. Yes.

4 Q. He is holding what you believe to be a
5 gun, correct?

6 A. Yes.

7 Q. He looks in your direction, and he
8 sees unmarked police cars coming his way,
9 correct?

10 A. Yes.

11 HEARING OFFICER WOOD: You are starting to
12 lead.

13 MR. GRACE: Okay.

14 BY MR. GRACE:

15 Q. When you make all of these types of
16 observations, what is going through your mind?

17 A. When I observe him change his
18 direction and begin to go north on Indiana
19 after looking in my direction, it's my belief
20 that he recognizes me to be the police. That
21 he's aware that he may be stopped by us. He's
22 aware that he's armed with a gun, and it's his
23 -- that he wants to flee to avoid being stopped
24 and apprehended.

1 Q. What's your level of alert?

2 A. At that point, my level of alert is
3 high, being on high alert. Person's armed with
4 a handgun, you never know what could happen.

5 Q. So what do you do next?

6 A. After he steps in my direction and
7 then steps back towards Indiana, my very last
8 observation is that it appears he begins to
9 run.

10 I quickly accelerate my vehicle
11 towards Indiana, west into the T alley, and
12 when I approach Indiana, I observe the person
13 we now know as Dakota Bright run full speed
14 northbound on Indiana.

15 Q. Did you ever lose sight of him when
16 you made that turn northbound?

17 A. Yes. When he turned and went north on
18 Indiana, and I was still in the T alley, I lost
19 site of him for approximately a second or two.

20 Q. When you regained your sight, could
21 you see -- when you regained your sight, what
22 was he doing?

23 A. Again, he was running full speed on
24 the east side of the sidewalk on Indiana

1 northbound holding his left side.

2 Q. Did you go over the radio?

3 A. Yes, I did.

4 Q. With what did you say?

5 A. I notified dispatch of my location. I
6 notified dispatch of the observations that I
7 saw, which was a male black clothing
8 description and him holding his left side.

9 Q. Now, you've already testified that you
10 believed he had a gun. Why didn't you say man
11 with a gun? Why didn't you say G-U-N?

12 A. At that point, I was operating my
13 vehicle. I was also operating my radio, and I
14 was relaying my observations as I saw them.
15 And when I said holding his left side, it's
16 what I observed, and it also was an implication
17 of him being armed. Not saying gun and saying
18 holding his left side were -- I know they're
19 not one and the same, but it's the -- those are
20 the way my words came out.

21 Q. And you said you worked six and a half
22 years tact in some rough districts. When you
23 as an officer listening to this hears man
24 holding his side, what does that mean to you?

1 A. It's an implication that the person
2 could be concealing a weapon and armed.

3 Q. Okay. Now, after you made that
4 dispatch to the OEMC operator -- dispatcher,
5 she then broadcasts that out to all units,
6 right?

7 A. Correct.

8 Q. She is explaining to them what you
9 just told her, correct?

10 A. Correct.

11 Q. And you've had an opportunity to
12 listen to that OEMC dispatcher. What did she
13 say to all officers in the area in the district
14 on the zone?

15 MR. FIEWEGER: Objection. Hearsay.

16 HEARING OFFICER WOOD: That would be
17 hearsay.

18 MR. FIEWEGER: The recording's coming in
19 anyway.

20 MR. GRACE: I thought we were going to
21 agree that was coming in.

22 MR. FIEWEGER: Right. So we don't need him
23 to testify to it as hearsay.

24 MR. GRACE: It is not offered for the truth

1 of the matter asserted, it is offered as to why
2 a dispatcher -- what it means to him when a
3 dispatcher says use caution.

4 HEARING OFFICER WOOD: Are you withdrawing
5 your objection?

6 MR. FIEWEGER: No. Use caution, that's
7 what she said. It is being offered for the
8 truth of that.

9 HEARING OFFICER WOOD: Sustained.

10 BY MR. GRACE:

11 Q. So after you heard the OEMC
12 dispatcher, without telling me what she said,
13 make those comments, what did you do?

14 A. At this point, I continued to pursue
15 Dakota Bright. I believe he continued
16 northbound on Indiana until you reach
17 Marquette, at which point he turned right and
18 going eastbound on Marquette.

19 Q. Did you make any observation with
20 respect to what he was doing as he was fleeing?

21 A. Yes. He was continuing to hold his
22 left side.

23 Q. So he makes the right or goes
24 eastbound on Marquette. What do you do?

1 A. I continue in that direction. And
2 when I approach Marquette, I lose site of him
3 for approximately a second or two again. And I
4 regain site of him, and he is still eastbound
5 on Marquette continuing to hold his left side.

6 MR. GRACE: Your Honor, can I approach for
7 the exhibits? Any objection?

8 MR. FIEWEGER: No.

9 HEARING OFFICER WOOD: Yes.

10 BY MR. GRACE:

11 Q. On the board you're going to see group
12 Exhibit No. 25. Do you recognize that?

13 A. Yes, I do.

14 Q. There are nine pictures there. What
15 do they depict?

16 A. This would be a screenshot or still
17 frame of a surveillance video, which is located
18 on a building on Marquette Avenue just east of
19 Indiana, and it shows Dakota Bright running
20 eastbound from Indiana towards Prairie on
21 Marquette. And as he is in a running motion,
22 it appears that his right hand is pumping and
23 his left side is leaning on his left side.

24 Q. Is that the view you saw when you made

1 that right turn onto Marquette heading
2 eastbound?

3 A. This isn't the exact view that I had,
4 but this view I would have observed this same
5 motion from the west angle more closer to
6 Indiana.

7 Q. Your vehicle would have been north of
8 Dakota Bright, correct?

9 A. It would have been -- yeah, once I
10 turned onto Marquette, I would have been just
11 north of him.

12 Q. And west?

13 A. And west, correct.

14 Q. So where does Dakota Bright run to?

15 A. He proceed east until he approaches a
16 vacant lot on Marquette, at which point in time
17 he makes a right-hand turn and proceeds south
18 through the vacant lot.

19 Q. What do you do?

20 A. I proceed east to Marquette, and I get
21 parallel with the vacant lot where I last see
22 Dakota change his direction, and I stop my
23 vehicle, and I let Officer Ternand get out of
24 the vehicle.

1 Q. Officer Ternand gets out of the
2 vehicle at the vacant lot?

3 A. Yes, he does.

4 Q. What do you see Officer Ternand do
5 when he exits the vehicle?

6 A. Officer Ternand then runs through the
7 vacant lot and pursues Dakota Bright on foot.

8 Q. What do you do?

9 A. I stay in the vehicle and maintain a
10 visual of Dakota Bright and Officer Ternand in
11 an attempt to see if there's another change in
12 direction or something of that nature. But I
13 last see Dakota Bright continuing south through
14 a vacant lot and then jumping over a guardrail.

15 Q. Once he jumped over the guardrail, do
16 you maintain your position?

17 A. No, at that point I then drive my
18 vehicle east on Marquette and then south on
19 Prairie.

20 MR. GRACE: Can I approach one more time?

21 HEARING OFFICER WOOD: Yes.

22 MR. GRACE: May I proceed?

23 HEARING OFFICER WOOD: Yes.

24 BY MR. GRACE:

1 Q. I'm showing you what's been previously
2 marked Exhibits 34 through 43. Ask you to pay
3 special attention to first Exhibit
4 No. -- picture number 36. Do you see that?

5 A. Yes, I do.

6 Q. Now, what is that a view of?

7 A. This would be a view of the vacant lot
8 that Dakota Bright ran through after he changed
9 his direction on Marquette.

10 Q. And is that the location that you
11 watched Brandon chase him down the vacant lot?

12 A. No, this picture appears to be taken
13 on the north side of the street, and I was on
14 the south side of the street, so I was a little
15 closer.

16 Q. Do you see the man with the white
17 shirt?

18 A. Yes, I do.

19 Q. Would you -- would it be accurate to
20 state that your vehicle was approximately
21 located just north of him?

22 A. Yes, that would be fair.

23 Q. Gauge your eyes over to Exhibit No.
24 38.

1 A. Yes.

2 Q. Do you see that picture?

3 A. Yes.

4 Q. What is that a picture of?

5 A. This is a closer picture of the vacant
6 lot that Dakota ran through. And it appears to
7 be taken maybe by the sidewalk or at the very
8 beginning of the lot.

9 Q. So that's where Brandon chased Dakota
10 Bright, correct?

11 A. Yes.

12 Q. Can you see the backyard of 6727 South
13 Indiana from that picture?

14 A. No. The farthest thing I could see
15 there is the six-foot fence, and that yard
16 would be approximately two yards to the north
17 of that yard.

18 Q. Now, when you were -- before you
19 relocated your position from the front of the
20 vacant lot, did you see any pedestrians
21 standing around?

22 A. No, I did not.

23 Q. Did you see any cars parked watching
24 all this transpire?

1 A. No, I did not.

2 Q. Any vehicles honking their horns or
3 showing agitation due to the impediment of
4 vehicular traffic due to the police activity?

5 A. No.

6 Q. Now, you testified that you then
7 proceeded eastbound on Marquette, and you said
8 that you -- which way did you go after that?

9 A. I turned south on Prairie.

10 Q. Why did you go south on Prairie?

11 A. At that point, I knew that Officer
12 Ternand was chasing Dakota Bright, and that he
13 was to the south of him. And I also knew that
14 Officers Bruno and Sledge were in the general
15 vicinity of our area. So had Dakota Bright
16 wanted to flee eastbound, I wanted to cover
17 that angle in case he ran in my direction.

18 Q. Anybody notify Bruno and Sledge of the
19 direction of flight of Dakota Bright?

20 A. Yeah. I believe Officer Ternand got
21 on the radio and began to update the dispatcher
22 on the direction of flight once he proceeded on
23 foot.

24 Q. Why would an officer do that during a

1 foot chase?

2 A. For a few reasons. One would be
3 officer safety. We believe we are chasing an
4 armed offender; and, two, if that offender is
5 running in the direction of other officers, you
6 would want to create some type of a boundary so
7 that you can apprehend the offender without him
8 making an escape. Cutting off angles of
9 escape.

10 Q. Box him in, right?

11 A. Correct.

12 Q. What do you hear or observe next as
13 you are proceeding southbound on Prairie?

14 A. As I turn the corner from Marquette to
15 Prairie, I hear on the radio "Shots fired."

16 Q. What do you do?

17 A. I continue south on Prairie for a few
18 more houses, and then I park my vehicle and I
19 exit.

20 Q. And what do you see? Where do you go
21 and then what do you see?

22 A. I kind of approximate where I guess
23 Brandon and Dakota might be, and I cut through
24 a gangway, and after I cut through the gangway,

1 I make it from Prairie towards Indiana, walked
2 throughout alley, cut through a second gangway,
3 and at that point I observe Officer Ternand and
4 Dakota Bright.

5 Q. Let's go with Officer Ternand. Where
6 is he?

7 A. Officer Ternand was to my right in the
8 yard with the six-foot fence.

9 Q. And where was Dakota Bright?

10 A. Dakota Bright was to my left laying on
11 the ground.

12 Q. And how many yards down do you believe
13 Dakota Bright was from Officer Ternand?

14 A. It was Officer Ternand, then two
15 yards, and then Dakota, they were approximately
16 three yards away from each other.

17 Q. And Dakota Bright's body was closest
18 to the fence?

19 A. Yes.

20 Q. Okay. Were there any other CPD
21 members present?

22 A. Yes. I also observed Officer Bruno.

23 Q. Where was he?

24 A. He was standing in the yard with

1 Dakota, standing near his body.

2 Q. Did you ever see Dakota drop or throw
3 or get rid of any gun during this entire
4 incident?

5 A. No, I did not.

6 Q. Where did you think what you believed
7 to be a gun was when Brandon was chasing him?

8 A. I believe that Dakota was still armed
9 by the way he was holding his left side.

10 Q. You said you worked with Brandon for
11 four years?

12 A. Yes.

13 Q. You've known him about ten?

14 A. Yes.

15 Q. Did you ever know Brandon to wear
16 glasses when he works?

17 A. No.

18 Q. What about Brandon physically, would
19 you consider him to be a fast guy?

20 A. Yes.

21 Q. Would he be involved in foot chases
22 when you worked with him?

23 A. Yeah. At the time of us working
24 together in that year, Brandon was one of the

1 younger guys on the tact team. He was in good
2 shape. And whenever we got in foot chases,
3 Brandon would usually be one of the officers
4 involved trying to chase and apprehend
5 offenders on feet.

6 MR. GRACE: Your Honor, I have some
7 questions for character evidence. Maybe I
8 should stop now and let counsel cross, or do
9 you want me to go right into character?

10 HEARING OFFICER WOOD: That saves him from
11 having to come back.

12 MR. GRACE: Right. It doesn't save him
13 coming back. I didn't know if counsel wanted
14 to jump on cross, and then when he's done with
15 cross I will do character.

16 HEARING OFFICER WOOD: Let's do it
17 complete.

18 MR. GRACE: Okay.

19 BY MR. GRACE:

20 Q. So you testified you've known him for
21 ten years, that's personally and
22 professionally?

23 A. Yes, it is.

24 Q. Do you know his reputation in the 3rd

1 District?

2 A. Yes, I do. Brandon is known in the
3 3rd District as one of the hardest-working
4 officers.

5 In my time working with Brandon,
6 him and I were amongst the top arresting
7 officers in the district. Brandon is
8 decorated. He's achieved several
9 commendations, and had a good working
10 reputation with other officers in the 3rd
11 District.

12 Q. What about the citizens in the
13 district, do you know the reputation Brandon
14 had with them?

15 A. Yeah. Brandon's interaction with
16 members of the 3rd District, he was respected.
17 He gave above and beyond police service if
18 you -- somebody called 911, you would want an
19 officer like Brandon.

20 Q. What about his reputation for
21 truthfulness and honesty?

22 A. He's always been truthful, and I never
23 had any reason to think otherwise.

24 MR. GRACE: Thank you.

1 HEARING OFFICER WOOD: Thank you. Cross.

2 CROSS-EXAMINATION

3 BY MR. FIEWEGER:

4 Q. Detective Razo, over the years you've
5 gotten to know Brandon well, correct?

6 A. Yes.

7 Q. And you've been friends with him,
8 correct?

9 A. Yes.

10 Q. You are more than just partners,
11 correct?

12 A. Yes.

13 Q. You had indicated earlier that it
14 wasn't uncommon to hear calls of shots fired in
15 the 3rd District, correct?

16 A. Correct.

17 Q. You hadn't heard such calls on
18 November 8th, right?

19 A. Not that I recall.

20 Q. When you observed Dakota Bright step
21 into that alley, you weren't responding to any
22 sort of call of shots fired, correct?

23 A. No.

24 Q. You said you were driving a Crown

1 Victoria, correct?

2 A. Yes.

3 Q. That car wasn't equipped with an
4 in-car camera, was it?

5 A. No, it was not.

6 Q. Now, when you first observed Dakota
7 Bright as he stepped into the alley off of
8 Indiana, I believe it's your testimony he took
9 one step towards you and then immediately
10 started going back towards Indiana, correct?

11 A. Yes.

12 Q. And then he headed north up Indiana,
13 correct?

14 A. Yes.

15 Q. And then as he got behind the building
16 that was on the corner of Indiana and the alley
17 on the north side, you lost site of him, right?

18 A. I lost site of Dakota as far as the T
19 alley was. Where the T alley ends is where my
20 vantage point of him ended from my observation.

21 Q. So the building that's on the corner,
22 I believe it's 6705 South Indiana, the building
23 that's on that corner, it doesn't reach all the
24 way back to the alley, does it?

1 A. I believe that there is an angle that
2 sort of creates a gap. But from when I first
3 made my observation, that angle didn't exist.
4 So my last vantage point of him was where the T
5 alley stops.

6 Q. But there were trees south of that
7 building, correct?

8 A. I believe so.

9 Q. So as soon as he got north of the
10 alley, that's when you lost sight of it?

11 A. Correct.

12 Q. So the time from when you first saw
13 him to when you lost sight of him, that was no
14 more than a couple of seconds, right?

15 A. Yes.

16 Q. You didn't recognize Dakota Bright
17 when he stepped into that alley, did you?

18 A. No, I did not.

19 Q. And you didn't suspect him of being
20 wanted for anything at that point, correct?

21 A. No, I did not.

22 Q. You radioed in a description of Dakota
23 Bright, correct?

24 A. Yes, I did.

1 Q. You said what he was wearing, a red
2 hoodie, right?

3 A. Yes.

4 Q. You said he was holding his left side?

5 A. Yes.

6 Q. You said that implies he was carrying
7 a weapon, correct?

8 A. Yes.

9 Q. Somebody had just -- hypothetically,
10 if somebody had stolen a laptop out of a store
11 and tucked it under their coat and in their
12 waistband and running down the street holding
13 that, they'd be holding their left side,
14 correct?

15 MR. GRACE: Objection. Calls for
16 speculation, Judge. It's a hypothetical.

17 HEARING OFFICER WOOD: I think he does get
18 to cross-examine the witness on testimony that
19 he gave on direct.

20 BY MR. FIEWEGER:

21 Q. Can you answer the question?

22 A. Yeah. Hypothetical, if a person had a
23 laptop on the left side of their body, they had
24 it tucked in their clothing, they would be

1 holding their left side of their body, correct.

2 Q. When Dakota Bright stepped into the
3 alley, you didn't immediately see his gun at
4 that point, correct?

5 A. Yeah, I didn't immediately pay special
6 attention to anything until I noticed that he
7 stepped, looked in our direction and then
8 immediately changed his direction. That's kind
9 of when I focused in on more observations.

10 Q. When he turned to run, that's when you
11 first saw what looked like a gun?

12 A. Yes.

13 Q. What you were able to see what you
14 believed looked like a barrel of a gun?

15 A. Correct.

16 Q. You couldn't tell what type of gun it
17 was, correct?

18 A. No, but I would have guessed revolver
19 based upon the barrel length.

20 Q. Not everybody who is wearing a red
21 hoodie and red shoes in the 3rd District is a
22 member of the DOD, right?

23 A. Correct.

24 MR. FIEWEGER: Can I approach?

1 HEARING OFFICER WOOD: Yes.

2 BY MR. FIEWEGER:

3 Q. Just put up the pictures from the
4 surveillance again if we can. And this is
5 Exhibit No. 25. And you recognize those
6 pictures?

7 A. Yes, I do.

8 Q. When had you seen these pictures
9 before?

10 A. Um, I hadn't seen them in a still
11 frame until recently. But I do remember
12 observing surveillance video near the time of
13 the incident.

14 Q. Did you play any role in securing that
15 surveillance video?

16 A. No, I did not.

17 Q. Do you know who did that?

18 A. No, I don't, but I would assume the
19 investigating detectives.

20 Q. Let's just move -- there's nine frames
21 here. Let's move from the top left corner.
22 Okay?

23 A. Yes.

24 Q. You see two legs at the very top of

1 the frame, correct?

2 A. Yes.

3 Q. And that's Dakota Bright we believe?

4 A. Yes.

5 Q. You can't see his arms in that
6 picture, right?

7 A. Correct.

8 Q. The next frame over, you can't see
9 Dakota Bright's arms there, can you?

10 A. May I approach?

11 HEARING OFFICER WOOD: Yes. You can only
12 go as far as the microphone.

13 THE WITNESS: It's a little hard to
14 determine if frame number two captures his
15 right hand. But you can sort of see, make out
16 a little bit more of his right maybe elbow.

17 BY MR. FIEWEGER:

18 Q. And the same is true for the 3rd
19 frame, correct?

20 A. In the 3rd frame, you can sort of
21 again see some of his right elbow.

22 Q. You can't see his left hand in any of
23 these frames, right?

24 A. No, I don't observe his left hand in

1 any of the frames.

2 Q. In the bottom -- the last two, the
3 eighth and ninth, bottom middle, bottom right
4 hand. He isn't seen in the frame?

5 A. In the eighth frame you can see his
6 leg and part of his red jacket. And in the
7 ninth frame, yeah, it's hard to tell if he's in
8 the ninth frame.

9 Q. In the eighth frame you can't see
10 either of his arms?

11 A. Yeah, it's hard to tell if either of
12 his arms are in the eighth frame.

13 Q. In all nine of these frames, you can't
14 see his left arm at all?

15 A. Correct.

16 Q. Let's put back Exhibit No. 36. That
17 was the picture looking south across Marquette
18 into the vacant lot, correct?

19 A. Yes.

20 Q. Do you have any idea when that picture
21 was taken?

22 A. No, I don't.

23 Q. Do you have any idea if that picture
24 was taken at any time in relation to the events

1 on November 8th, 2012?

2 A. Are you asking were they taken within
3 those preceding months?

4 Q. Yes.

5 A. I wouldn't know.

6 Q. Had you ever seen it before today?

7 A. No, I don't believe I saw it before
8 today, no, other than a few hours ago.

9 Q. You had indicated in response to
10 questions from counsel that you didn't see any
11 pedestrians moving about, correct?

12 A. Correct.

13 Q. You didn't see any traffic stopped as
14 a result of police activity, correct?

15 A. Correct.

16 Q. But you were busy focused on Dakota
17 Bright, right?

18 A. Correct.

19 Q. You weren't looking to see if there
20 were pedestrians on the north side of
21 Marquette, were you?

22 A. No, I wasn't.

23 Q. You weren't looking to see if there
24 were cars stopped in Marquette on the north

1 side of the street, were you?

2 A. No, I wasn't.

3 Q. So it very well could have been cars
4 stopped on the north side of Marquette, and you
5 wouldn't have noticed?

6 A. It's possible those pedestrians
7 or -- maybe a vehicle in the area that may have
8 been in the area, but not that I observed.

9 Q. You also indicated in response to
10 questions from counsel that you believed that
11 Officer Ternand updated the dispatcher on his
12 location during the chase. Do you remember
13 those --

14 A. I think what I meant to say was he
15 gave an updated direction of flight. I do
16 remember Officer Ternand being on the radio
17 after he proceeded to chase on foot.

18 Q. So if Officer Ternand had made a call
19 in on his radio, would that be reflected in the
20 OEMC records?

21 A. It should, yes.

22 MR. FIEWEGER: May I approach?

23 HEARING OFFICER WOOD: Yes.

24 BY MR. FIEWEGER:

1 Q. I'm going to hand you a document
2 that's been marked as Exhibit No. 4, and it's
3 entitled Chicago Police Department Event Query.
4 Detective Razo, are you familiar with a report
5 such as this?

6 (WHEREUPON, said
7 document was marked as
8 Respondent Exhibit No. 4
9 for Identification.)

10 A. Yes.

11 Q. What do these reports show?

12 MR. GRACE: Judge, can I object to this?
13 So what counsel is trying to do is it's on the
14 OEMC tapes. They don't have the dispatch.
15 It's improper impeachment. That's the
16 objection. They don't have the dispatch --
17 actual dispatch of what the dispatcher was
18 saying. In the actual transcripts, which I'm
19 holding in my left hand, it does have the
20 actual dispatch of, quote, "He is coming back
21 to you Gino." So this is improper impeachment.

22 HEARING OFFICER WOOD: So you are objecting
23 to the impeachment before he does it?

24 MR. GRACE: I'm just trying to save some

1 time. He can go through his questions. I can
2 redirect him and have that conversation --

3 MR. FIEWEGER: You know what? We're going
4 to bring these all in any way. We can argue it
5 and save some time. That's fine.

6 HEARING OFFICER WOOD: Okay.

7 MR. FIEWEGER: May I approach again?

8 HEARING OFFICER WOOD: Yes.

9 BY MR. FIEWEGER:

10 Q. Detective Razo, I'm going to hand you
11 what's been marked as Exhibit No. 2. And this
12 is a diagram that was prepared that shows the
13 path of the chase. Have you seen that diagram
14 before?

15 A. Yes, I have.

16 Q. My question for you is, that diagram
17 indicates the location of Dakota Bright's body
18 and Officer Ternand at the time of the
19 shooting, correct?

20 A. Yes.

21 Q. My only question for you, does that
22 accurately depict where you saw Dakota Bright
23 and Officer Ternand when you entered the
24 backyard after exiting your car?

1 A. Um, yes, it does. I believe I -- when
2 I exited my vehicle, I approached through a
3 gangway which might have led me to the yard
4 just south of Officer Ternand, so...

5 Q. What's the street address on that
6 yard? It's indicated on there.

7 A. That would be the yard of 6721.

8 Q. So you believe that's the yard that
9 you entered into?

10 A. And if for whatever reason it might
11 have been 25, but I believe it to be 21.

12 Q. And if that indicates that Dakota
13 Bright was at 6729 --

14 A. It's indicated here 27.

15 Q. 6727?

16 A. Yes.

17 Q. Did you go into that yard?

18 A. Yes, I did.

19 Q. Did you enter that yard from the
20 alleyway?

21 A. I don't recall if it was through an
22 alley or maybe just hopping over a four-foot
23 fence, I can't recall.

24 Q. That's all. Thanks very much.

1 You didn't see Officer Ternand fire
2 his weapon, did you?

3 A. No, I did not.

4 Q. You didn't see Dakota Bright do
5 anything to provoke Officer Ternand to fire his
6 weapon, correct?

7 A. No. I last saw Dakota Bright and
8 Officer Ternand when they were both running
9 south through the empty lot. Those were my
10 last visual observations.

11 MR. FIEWEGER: Thank you very much,
12 Detective.

13 MR. GRACE: Just a couple of questions.

14 REDIRECT EXAMINATION

15 BY MR. GRACE:

16 Q. When you saw Dakota Bright enter into
17 that alley off of Indiana, he didn't have a
18 laptop in his hand, did he?

19 A. No.

20 Q. Didn't have a basketball in his hand?

21 A. No, he did not.

22 Q. He didn't have a boxed lunch in his
23 hand?

24 A. No, he did not.

1 Q. He had what you believed to be the
2 barrel of a gun in his hand, correct?

3 MR. FIEWEGER: Objection. Leading.

4 HEARING OFFICER WOOD: It is leading.

5 BY MR. GRACE:

6 Q. What did you believe he had in his
7 right hand?

8 A. I believed as he was holding his left
9 side, that he was armed with a handgun.

10 Q. And when you made that observation,
11 did you say anything?

12 A. The only conversation Officer Ternand
13 and I had that was -- I said, "Do you see
14 that?"

15 Q. Say that again?

16 A. "Whoa, did you see that?"

17 Q. Whoa, did you see that?

18 A. Yes.

19 Q. What were you indicating?

20 A. I was indicating everything that I saw
21 in that one first second where Dakota Bright
22 stepped in our direction, stepped back away,
23 and then having the right hand with the barrel
24 of a handgun.

1 MR. GRACE: Thanks.

2 HEARING OFFICER WOOD: Anything else?

3 MR. FIEWEGER: No.

4 HEARING OFFICER WOOD: Thank you. Remember,
5 take off your microphone.

6 (Witness Excused.)

7 (Witness was duly
8 sworn.)

9 ANTHONY BRUNO,
10 called as a witness herein, after having been
11 first duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. THOMPSON:

15 Q. Officer, state and spell your name for
16 the record.

17 A. Anthony Bruno. B-R-U-N-O.

18 Q. Do you go by Tony?

19 A. Yes.

20 Q. Tony, when were you appointed to the
21 Chicago Police Department?

22 A. 25, February, '02.

23 Q. How many years of service do you have
24 with the Chicago Police Department presently?

1 A. Approximately 16 years.

2 Q. Where are you currently assigned with
3 the Chicago Police Department?

4 A. I work for the narcotics unit.

5 Q. Let's go back to after you leave the
6 academy. You attended the Chicago Police
7 Department academy, right?

8 A. Yes.

9 Q. What's the first district that you
10 were assigned to when you left the Chicago
11 Police Department's academy?

12 A. The 8th District.

13 Q. Can you give us a general description
14 of the 8th District in terms of area?

15 A. 8th District is approximately 87th to
16 43rd. Harlem to Bell.

17 Q. And in what capacity did you work in
18 the 8th District?

19 A. I was a probationary police officer.

20 Q. How long were you in the 8th District?

21 A. From September of '02 until December
22 of '03.

23 Q. So about a year?

24 A. Actually less than that, yeah. A

1 little bit under a year I think it was.

2 Q. After the 8th District, where were you
3 assigned?

4 A. I went to the 3rd District.

5 Q. And how long were you assigned to the
6 3rd District?

7 A. I was in the 3rd District until April
8 of 2014.

9 Q. And you started in 2003?

10 A. Yes.

11 Q. When you arrived at the 3rd District,
12 were you a patrol officer, or were you assigned
13 in a different capacity?

14 A. I was a patrol officer.

15 Q. How long were you a patrol officer in
16 the 3rd District?

17 A. Until November of '04.

18 Q. Did your assignment change in the 3rd
19 District?

20 A. Yes.

21 Q. What was the next assignment in the
22 3rd District that you had?

23 A. I became a tactical officer.

24 Q. What year did you become a tactical

1 officer?

2 A. November of '04.

3 Q. Could you just briefly describe for
4 the members of the board, they're likely aware
5 of this already, what's the difference between
6 the duties of a tactical officer versus the
7 duties of a patrol officer?

8 A. Tactical officers usually are only
9 assigned jobs that involve drugs guns, drugs or
10 gang activity. When we are not on jobs, we
11 tend to respond to in-progress calls dealing
12 with gangs or drugs or guns.

13 Q. And what year did you stop working as
14 a 3rd district tactical officer?

15 A. 2014.

16 Q. In 2014 where did you get assigned?

17 A. I went to the Bureau of Organized
18 Crime, narcotics division.

19 Q. And that's where you are presently?

20 A. Yes.

21 Q. And can you describe for us what your
22 duties and responsibilities with the Bureau of
23 Organized Crime of the Chicago Police
24 Department are?

1 A. I work on a team that deals with
2 narcotic drug investigations.

3 Q. In the years that you were serving the
4 City as a tactical officer in the 3rd District,
5 did you become familiar with the types of
6 crimes that were occurring in the 3rd District?

7 A. Yes.

8 Q. What types of crimes were occurring in
9 the 3rd District?

10 A. Our district had a little bit of
11 everything. I found it to be a little more
12 violent and gang-related than the 8th District
13 I worked in at first.

14 Q. And in the 3rd district, what type of
15 gang crimes did you encounter?

16 A. Everything from drugs to guns, people
17 shot, robberies, all sorts of things.

18 Q. Was it common that gangs would be in
19 conflict with each other in the 3rd District?

20 A. Yes, it was very common.

21 Q. And when they're in conflict with each
22 other, can you describe what that means, Tony?

23 A. Basically, day-to-day of gangs
24 shooting back and forth at each other.

1 Q. And is addressing that issue part of
2 the responsibilities of the tactical officers?

3 A. Yes.

4 Q. Were you on the 3rd district tactical
5 team before Officer Ternand?

6 A. Yes.

7 Q. Were you on the 3rd district tactical
8 team before Officer Razo, now Detective Razo,
9 was there?

10 A. Yes.

11 Q. And how about Officer Lara?

12 A. Yes.

13 Q. Did you participate in any way with
14 the transition of those officers joining the
15 3rd District tactical team?

16 A. Yes.

17 Q. What kinds of things did you do to
18 assist in the transition for those officers on
19 to the tactical team?

20 A. Tactical teams don't have an official
21 FTO like they do on watch. But being I was the
22 top senior officer on the team, I would usually
23 get to know the officers and kind of teach
24 them, you know, the different ways of

1 patrolling that we do on tactical teams rather
2 than on patrol. Just the idea of working
3 together in a team rather than being an
4 individual car. Things like that, I guess.

5 Q. Did you assist in the transition with
6 the officers on how the tactical team utilizes
7 tactics or strategies, for instance, in foot
8 pursuits?

9 A. Yes.

10 Q. And you're familiar with the incident
11 involving Dakota Bright, correct?

12 A. Yes.

13 Q. How would you describe the tactics --
14 strike that.

15 Were any tactics used during the
16 encounter with Dakota Bright?

17 A. Yes, I believe so.

18 Q. What type of tactics were used in the
19 encounter with Dakota Bright?

20 A. When a foot chase begins, what the
21 members do -- what the members of the team
22 typically do, is someone is pursuing the
23 offender on foot, we would attempt to box them
24 in with the other officers to cut off his

1 routes of escape, I guess.

2 Q. And during the foot pursuits of
3 subjects or offenders, would it be a common
4 practice or uncommon practice that one officer
5 would remain in the vehicle and the other
6 officer would pursue on foot?

7 A. It's not always the case, but it is
8 typically the case.

9 Q. I want to direct your attention, Tony,
10 to the date of this incident. Okay?

11 A. Yes.

12 Q. Were you working that day?

13 A. Yes, I was.

14 Q. Were you working in the capacity of a
15 3rd District tactical officer?

16 A. Yes.

17 Q. What were your hours that day?

18 A. I'm not sure exactly what time I
19 started. I think we were on days. Our days
20 are typically 10:00 in the morning until 6:00
21 at night.

22 Q. Did you have a regular partner at that
23 time?

24 A. I did.

1 Q. Who was your partner?

2 A. Officer Eugene Sledge. S-L-E-D-G-E.

3 Q. And how long had you and Officer
4 Sledge been partners prior to November of 2012?

5 A. You know, I'm not sure exactly when we
6 started working together. We were partners
7 for about three years. I just don't know how
8 long we were at that time.

9 Q. How were you dressed that day, Tony?

10 A. Plainclothes. I don't remember
11 specifically, but it was a T-shirt, jeans. And
12 my vest over it.

13 Q. Did you have your duty belt or
14 something similar to that with you?

15 A. Yes.

16 Q. What would be comprised of the
17 instruments on your duty belt?

18 A. I don't keep too much. I would have
19 my firearm, handcuffs and my radio. Possibly a
20 flashlight if it's dark.

21 Q. Did you receive a call or monitor a
22 call relative to a burglary in progress at or
23 near Prairie and 67th Street?

24 A. Yes.

1 Q. Can you tell us a little bit about
2 that burglary in-progress call?

3 A. I don't remember the call, the details
4 of the call, but it was something about a
5 burglary. When we responded, we determined the
6 individuals there were actually moving or doing
7 some work. They weren't burglarizing the
8 place.

9 Q. Did you take any police action
10 relative to that burglary call?

11 A. No, the job was just coded out.

12 Q. Were any other officers involved in
13 responding to that burglary call?

14 A. Yes.

15 Q. Who was that?

16 A. Along with myself and Officer Sledge
17 were Officer Ternand and Razo.

18 Q. Were you surprised to see them
19 responding to that call?

20 A. No, not at all.

21 Q. How would you describe the -- strike
22 that.

23 Were you familiar prior to the
24 burglary in progress call with the area of

1 Marquette, Indiana and Prairie?

2 A. Yes.

3 Q. How would you describe that area with
4 respect to your tactical duties and
5 responsibilities as it relates to crime and
6 gangs?

7 A. That area was a -- I guess a gang
8 conflict that was happening at the time that
9 was very violent. We spent a lot of our time
10 in that area. We had two gangs within a block
11 of each other that had a lot of -- a violent
12 history between them, a lot of shooting and
13 stuff like that in that area.

14 Q. What two gangs are those, Tony?

15 A. The DOD, Disciples of David, they are
16 a faction of the Black Disciples. And the
17 Stones, which are on Indiana, that are -- from
18 67th to 71st on Indiana. They control that
19 block.

20 Q. And prior to November 8th of 2012, how
21 long had those two gangs been involved in the
22 violent conflict?

23 A. I think it's been an off-and-on thing
24 for years, but at this point it was very much

1 violent at the time. It was a lot going on
2 then.

3 Q. Okay. So once the -- once you
4 determined that no police action was going to
5 be taken relative to the burglary in-progress
6 call, what happens next?

7 A. Got in my vehicle to leave the scene.

8 Q. And could you tell us your path of
9 travel when you left the burglary call?

10 A. We were traveling westbound in the
11 south T alley between Prairie and Indiana.

12 Q. Directing your attention -- directing
13 your attention, Tony, to what was previously
14 marked as Exhibit No. 1. Do you recognize this
15 to be eastbound and westbound Marquette Road?

16 A. Yes.

17 Q. And do you recognize this to be
18 Prairie?

19 A. Yes.

20 Q. And Prairie is a one-way running
21 northbound?

22 A. Yes, it is.

23 Q. And do you recognize this street over
24 here to be southbound -- Indiana first?

1 A. Indiana, yes.

2 Q. Is that a one-way traveling
3 southbound?

4 A. Yes, it is.

5 Q. What was previously marked there is a

6 B. Is that a fair representation of where the
7 burglary call occurred?

8 A. Yes.

9 Q. Was your vehicle facing northbound or
10 southbound on Prairie, if you recall, Tony?

11 A. Southbound.

12 Q. So you're facing in the wrong
13 direction, correct?

14 A. Yes.

15 Q. When you leave, what was your path of
16 travel?

17 A. South on Prairie and immediately make
18 a right turn and head west through the T alley.

19 Q. And when you made those turns, do you
20 know where Officer Razo and Officer Ternand's
21 vehicle was?

22 A. They were in front of us.

23 Q. What type of vehicle were you in that
24 day?

1 A. I was in an unmarked SUV.

2 Q. Is it a Chevy Tahoe?

3 A. It may have been. I don't recall what
4 my vehicle was.

5 Q. Police vehicle?

6 A. It was a police unmarked vehicle, yes.

7 Q. And when you began your travel
8 westbound in the alley, how far was Officer
9 Razo and Officer Ternand's vehicle in front of
10 you?

11 A. At first they were immediately in
12 front of us as they went. I'd say the furthest
13 point maybe a hundred feet from us.

14 Q. And as you traveled through the alley,
15 does your vehicle accelerate to a certain speed
16 that you maintained?

17 A. Yeah, I'd say approximately 15 to 20
18 miles an hour.

19 Q. Did you encounter or observe any
20 person or pedestrian into that alley?

21 A. Yes.

22 Q. Where were you when you first observed
23 the subject enter the alley?

24 A. Somewhere near the middle of the

1 alley, between Indiana and Prairie.

2 Q. Did the subject enter the alley in
3 front of you or behind you?

4 A. In front of me.

5 Q. So could you use a circle to indicate
6 on the alley with the red marker where you were
7 when you first observed the subject enter the
8 alley?

9 A. Where I was?

10 Q. Where your vehicle was.

11 A. Somewhere around here.

12 Q. Could you put a T in there.

13 And when you observed the person
14 for the first time, how far at that point was
15 Officer Ternand and Officer Razo's vehicle

16 A. I don't know. 50, maybe a little bit
17 more in front of us. I'm not exactly sure.

18 Q. And were they maintaining a speed
19 moving forward?

20 A. Yes.

21 Q. Were you the driver or the passenger,
22 Tony?

23 A. I was the passenger.

24 Q. And what, if anything, did you observe

1 when you saw this person for the first time?

2 A. All I saw at the end of the alley, the
3 mouth of the alley, I saw an individual in red
4 clothing. The only description I could observe
5 from how quick it was. I observed an
6 individual in red at the mouth of the alley run
7 northbound on to Indiana.

8 Q. And what, if anything, did you observe
9 about the clothing that that individual was
10 wearing?

11 A. Bright clothing. Easy to identify.
12 Gangs in the area are known to wear their gang
13 colors like that. It was very distinguishable
14 to me. I noticed the color and that's what
15 caught my eye, I think.

16 Q. When you observed this person in
17 bright-color clothing again running or fleeing
18 northbound on Indiana, what, if anything, did
19 you think about that individual at that moment?

20 A. Well, based on my experience, an
21 individual that's fleeing upon being in the
22 presence of police I feel has either committed
23 or about to commit a crime.

24 Q. What, if anything, did you observe

1 with respect to Officer Razo and Officer
2 Ternand's vehicle when that subject began to
3 flee?

4 A. I observed their vehicle continue
5 westbound and turn north on to Indiana.

6 Q. Where did your vehicle go?

7 A. My vehicle continued a little bit
8 further west. We stopped in the alley.

9 Q. Why did you stop in the alley?

10 A. I told my partner to stop the vehicle
11 in case the offender was running, double back
12 to the location we started at.

13 Q. And why would you believe the subject
14 may double back?

15 A. Well, it happens pretty frequently.
16 They tend to do this a lot. I wait until they
17 come back to where it started. But then at
18 some point there is a transmission that he's
19 heading your way or something like that.

20 Q. We'll get to the transmission.

21 But the vehicle that Officer Ternand
22 and Officer Razo were in, did you believe that
23 they were pursuing the fleeing person in the
24 bright-colored clothing

1 A. Yes.

2 Q. And when you stopped your vehicle
3 believing that they may doubling back, is that
4 a regular common practice or tactic used by the
5 tactical team?

6 MR. GRACE: Objection.

7 MS. WHALEY: Objection. Leading.

8 HEARING OFFICER WOOD: You are leading.

9 MR. THOMPSON: Okay. I'll rephrase.

10 BY MR. THOMPSON:

11 Q. In your experience, Tony, why was it
12 important for you to stop that vehicle and not
13 follow behind Officer Razo and Officer
14 Ternand's vehicle?

15 A. Based on a tactical approach to it.
16 For us to follow them wouldn't help at all. If
17 they're pursuing him, then to cover more area,
18 I'm going wait there for him to double back.
19 My partner will stay in the car, wherever he
20 needs to go. Again, in an attempt to box him
21 in if he is fleeing.

22 Q. Did you have a radio with you that
23 day, Tony?

24 A. Yes.

1 Q. Where do you carry your radio?

2 A. In my vehicle. It's sitting next to
3 me. When I'm on the street, it's either in my
4 hand or my pocket.

5 Q. Were you monitoring radio
6 communications?

7 A. Yes.

8 Q. Did you hear any radio communications
9 being broadcast by Officer Razo or Officer
10 Ternand?

11 A. Yes.

12 Q. What was the first broadcast that you
13 heard from Officer Razo or Officer Ternand?

14 A. Officer Razo radioed in that they were
15 pursuing or chasing an offender in red who was
16 holding his side.

17 Q. And what, if anything, does the
18 description of a fleeing subject holding his
19 side mean to you as a tactical officer in the
20 3rd District?

21 A. To me it means he is an armed offender
22 that's running from the police.

23 Q. When you stopped your vehicle, did you
24 exit the vehicle?

1 A. Yes.

2 Q. What, if anything, did you do relative
3 to your firearm or handgun when you exited your
4 vehicle?

5 A. I drew my weapon.

6 Q. Why?

7 A. Well, I believed the transmission that
8 the offender that was -- the subject that was
9 fleeing was armed.

10 Q. And by drawing your weapon when you
11 exited your vehicle, what purpose does that
12 serve?

13 A. Protecting myself.

14 Q. Are you protecting anybody else?

15 A. Protecting anybody who I possibly can.

16 Q. While you were monitoring the radio
17 communications, did you hear any other
18 broadcasts from Officer Razo or Officer
19 Ternand?

20 A. Yes, there was some transmission that
21 he's headed your way or something along those
22 lines. I don't recall exactly.

23 Q. And what did that broadcast mean to
24 you?

1 A. I believed that the offender was, in
2 fact, doubling back, heading towards myself and
3 my partner.

4 Q. Had you experienced those types of
5 situations before?

6 A. Yes.

7 Q. When you exited your vehicle and you
8 drew your weapon, did you remain in the
9 stationary position?

10 A. No, I began walking eastbound in the
11 alley.

12 Q. Why?

13 A. I was trying to peek into the yards to
14 see if I observed him coming towards us.

15 Q. Did you ever again observe the person
16 that you originally saw with the bright-colored
17 clothing in the mouth of the alley while you
18 were walking eastbound in that alley?

19 A. Yes.

20 Q. What did you observe, Tony?

21 A. As I was walking eastbound, I observed
22 the individual in red run across the alley from
23 north to south, through what appeared to be a
24 vacant lot.

1 Q. And how far was that subject from you
2 when you first observed him emerge from that
3 lot?

4 A. Maybe one garage length. However far
5 that was.

6 Q. And prior to the subject emerging from
7 the lot and after you heard the communication
8 that there -- he is coming back your way, or
9 words to that effect, did you ever hear Officer
10 Ternand say anything?

11 A. Yes.

12 Q. What did you hear Officer Ternand say?

13 A. He was yelling, stop, drop the gun.

14 Q. How many times did you hear him say
15 that?

16 A. I couldn't hear everything that was
17 said. I heard him say it at least one. He was
18 yelling things. I couldn't make out everything
19 he was saying.

20 Q. Did you observe Officer Ternand emerge
21 from the lot?

22 A. Yes.

23 Q. And what, if anything, did you hear
24 Officer Ternand say to you?

1 A. As I approached Officer Ternand when
2 he came through, he turned to me and said,
3 "He's got a gun." Or not turned to me, he said
4 to me, "He's got a gun."

5 Q. And in what level voice did Officer
6 Ternand make that statement to you?

7 A. He was -- adrenalin seemed to be
8 going. He was excited. He kind of yelled it
9 out.

10 Q. And when you heard Officer Ternand
11 tell you he has a gun, what, if anything, did
12 that mean to you?

13 A. Armed offender.

14 Q. What did you do next?

15 A. I then -- I took a few steps in the
16 same direction behind the subject and Officer
17 Ternand. I then yelled to Ternand that I was
18 going to go and cover the alley.

19 Q. And before you made your move to cover
20 the alley, were you able to view the individual
21 we now know as Dakota?

22 A. Yes.

23 Q. What, if anything, did you observe
24 relative to the manner in which Dakota Bright

1 was running?

2 A. He was running south holding his left
3 side and then began hopping -- started to hop a
4 fence.

5 Q. When you observed Dakota Bright pass
6 you holding his left side, what, if anything,
7 did that mean to you?

8 A. I believed he was armed.

9 Q. How did you exit into the alley?

10 A. I traveled through the first yard
11 eastbound and made it to the alley.

12 Q. What was the purpose of you stopping
13 the pursuit immediately behind Dakota Bright
14 and moving to the alley?

15 A. Using our tactics, I considered
16 Officer Ternand had the north covered, and he
17 was pursuing. The subject was traveling
18 southbound in the yards. I then would go to
19 the alley to box him in so he couldn't go
20 eastbound.

21 Q. Were you out of site of your partner?

22 A. Yes, I was.

23 Q. Did you work with Officer Sledge every
24 day?

1 A. Yes.

2 Q. Had you worked with Officer Sledge in
3 foot pursuits before?

4 A. Yes.

5 Q. Did you have a reasonable belief as to
6 what Officer Sledge was doing while you were
7 paralleling Dakota Bright in the alley?

8 A. Yes, I believe so.

9 Q. And what was that, Tony?

10 A. Head out to somebody to Indiana, turn
11 south and parallel from Indiana.

12 Q. How many times in the past, prior to
13 this day, had you, you and your team, performed
14 those tactics?

15 A. Many times. I couldn't even begin to
16 guess.

17 Q. What, if anything, did you hear while
18 you were in the alley, Tony?

19 A. I was in the alley. I heard one
20 gunshot.

21 Q. Do you know approximately where in the
22 alley you were when you heard the one gunshot?

23 A. Somewhere behind the second yard,
24 maybe behind the garage. I was back behind the

1 garage. I'm not sure exactly which one it was.
2 Might have been the first one.

3 Q. Could you circle the area where you
4 believe you were when you heard the gunshot,
5 could you put T2 in there?

6 A. Yeah.

7 Q. What, if anything -- what occurred,
8 Tony, when you heard the gunshot, if anything?

9 A. I was concerned. Nervous.

10 Q. Whom did you believe fired the shot?

11 A. I had no idea. I didn't know if it
12 was Officer Ternand or the subject.

13 Q. Have you been in prior incidents where
14 subjects have fired on the police?

15 A. Yes.

16 Q. So is it your testimony that when you
17 were in the alley, you didn't know whether or
18 not it was the subject firing on the police or
19 whether it was the police firing on the
20 subject?

21 A. No, I did not know.

22 Q. Once you heard the gunshot, what, if
23 anything, did you do next?

24 A. I continued walking southbound in the

1 alley looking in the yards.

2 Q. What, if anything, did you observe
3 when you were looking in the yards from your
4 position in the alley?

5 A. As I got to one of the yards, I
6 observed the individual in red laying on the
7 ground in the yard.

8 Q. Did you believe that the individual
9 that you saw in red laying in the ground was
10 the same person that you initially saw at the
11 mouth of the alley and the same person that you
12 saw when they emerged from that vacant lot?

13 A. Yes.

14 Q. What did you do after making that
15 observation?

16 A. I observed him for a second. I didn't
17 see any movement. I quickly holstered my
18 weapon, climbed the fence and drew my weapon
19 again.

20 Q. Then what did you do?

21 A. I approached the individual. I didn't
22 see any movement. I again holstered my weapon.
23 Handcuffed him. And I radioed for EMS.

24 Q. Why did you handcuff him?

1 A. We're trained in the academy that in
2 that situation, I don't know if the individual
3 is really down, injured or just pretending. I
4 don't know if he still has the firearm or if
5 it's in his hand. Just for my safety, I
6 handcuffed him real quick and called for EMS.

7 Q. When you entered the backyard where
8 the subject was on the ground, could you see
9 Officer Ternand?

10 A. Yes, I could.

11 Q. And what was Officer Ternand doing
12 when you observed him?

13 A. He was standing in the yard a few
14 yards away.

15 Q. Did he have his weapon --

16 A. His weapon was out, yes.

17 Q. And how was his weapon positioned?

18 A. In his hand, pointed downward.

19 MR. THOMPSON: That's all the questions I
20 have.

21 HEARING OFFICER WOOD: Thank you. Cross?

22 MR. THOMPSON: I'm sorry, Madam Hearing
23 Officer, like the last witness, we'd like to
24 call Officer Bruno also as a character witness.

1 HEARING OFFICER WOOD: That's fine.

2 MR. THOMPSON: You want me to do it now?

3 HEARING OFFICER WOOD: Yes.

4 BY MR. THOMPSON:

5 Q. Officer Bruno, how long have you known
6 Officer Ternand?

7 A. I've known him for maybe ten years.
8 Eight. I don't know exactly.

9 Q. Did you -- do you know Officer Ternand
10 both professionally and personally?

11 A. Yes.

12 Q. And you know him professionally as a
13 Chicago police officer, correct?

14 A. Yes.

15 Q. Do you know him personally as a
16 husband and a father and a friend?

17 A. Yes.

18 Q. So with respect to Officer Ternand's
19 reputation in the 3rd District, particularly on
20 the tact team, how would you describe his
21 reputation?

22 A. Brandon is a good, hard worker. He's
23 funny. He's always there. He's -- he works as
24 hard as anybody does there.

1 Q. And with respect to the 3rd District
2 as a whole, what's Officer Ternand's reputation
3 in the 3rd District?

4 A. Brandon is liked. I never heard a bad
5 word spoken by anyone about him.

6 Q. Are you familiar with any officers
7 complaining about Officer Ternand
8 professionally or personally?

9 A. None that I've ever heard.

10 Q. How would you describe Officer
11 Ternand's truthfulness and veracity?

12 A. I've never known him to be untruthful.
13 I can't recall a time that I ever heard -- felt
14 he wasn't telling me the truth.

15 Q. The team makes a lot of arrests,
16 right?

17 A. Yes.

18 Q. You fill out a lot of reports,
19 correct?

20 A. Yes.

21 Q. In your experience, has Officer
22 Ternand ever indicated in any of the reports or
23 attempted to indicate in any report something
24 you believed to be untruthful or dishonest?

1 A. Nothing that I've ever known, no.

2 Q. You've seen Officer Ternand interact
3 with members of the community, correct?

4 A. Yes.

5 Q. How would you describe Officer
6 Ternand's interaction with the members of the
7 community?

8 A. He's tough. He's fair. He's
9 respectful.

10 Q. Have you ever observed Officer Ternand
11 be disrespectful to any citizen in the
12 community where you missed?

13 A. Not that I recall ever seeing.

14 MR. THOMPSON: That's all I have, Madam
15 Hearing Officer.

16 HEARING OFFICER WOOD: Thank you. Cross?

17 CROSS-EXAMINATION

18 BY MS. WHALEY:

19 Q. Good afternoon. So you testified
20 earlier that you kind of led unofficial
21 training for the district that you worked in,
22 including for Officer Ternand, correct?

23 A. For my team, yes.

24 Q. For your team?

1 A. Yes.

2 Q. And you said you emphasize the
3 importance of working together as a team as
4 opposed to an individual, correct?

5 A. Yes.

6 Q. And you would train on tactics,
7 including boxing in a suspect, correct?

8 A. Yes.

9 Q. And in that training, would you say
10 that the -- that there's importance in
11 communicating your location in order so you can
12 make sure you're actually boxing the suspect
13 in?

14 A. If possible, yes.

15 Q. You testified that when you saw the
16 individual at the mouth of the alley, you only
17 saw him wearing a red jacket, correct?

18 A. Yes.

19 Q. So you did not see anything in his
20 hand, correct?

21 A. No, I did not.

22 Q. So you did not see him holding a gun,
23 correct?

24 A. I did not.

1 Q. You testified that you only heard
2 shots fired, correct? A shot fired?

3 A. One shot fired.

4 Q. So you did not see Officer Ternand
5 fire his weapon, correct?

6 A. I did not.

7 Q. And you did not see Dakota do anything
8 to prompt Officer Ternand to fire his weapon,
9 correct?

10 A. I did not.

11 Q. You said when you encountered Officer
12 Ternand in the alley, you yelled that you were
13 going to the north/south alley, correct?
14 Sorry. Let me clarify.

15 So you encountered Officer Ternand
16 as he was exiting this empty, vacant lot,
17 correct?

18 A. Yes.

19 Q. And as you crossed paths, you informed
20 him that you would continue -- that you would
21 be heading to this alley, this north/south
22 alley?

23 A. Yes, I was going to go through the
24 alley.

1 Q. And you informed him of that?

2 A. Yes, I said I'm going to take the
3 alley.

4 Q. You gave a statement to IPRA on
5 November 8th, 2012, correct?

6 A. Okay.

7 Q. Page 14, starting at line 8.

8 During your IPRA interview, were you
9 asked these questions and give this answer?
10 Okay. And did you say anything during this foot
11 pursuit? No. Once when I ran to -- when I ran
12 east to the alley, I lost sight of the offender
13 as I was running through the alley. I was
14 hoping to -- by running through the alley, I was
15 able to move quicker than hopping the fences to
16 cut them off.

17 A. What was the question?

18 Q. When you gave your statement to IPRA,
19 were you asked this question and did you give
20 this answer?

21 A. If that's what it says, then yes.

22 Q. So here it says you stated that you
23 did not say anything during your foot pursuit,
24 correct?

1 A. I don't recall the context that was
2 in. I don't know. I don't know if I was asked
3 was anything said over the radio. I don't know
4 what we're talking about honestly. I can't say
5 based on just that statement.

6 Q. Okay. Here it says did you say
7 anything during this foot pursuit.

8 A. Okay. No. I don't...

9 MS. WHALEY: That's it.

10 HEARING OFFICER WOOD: Anything further?

11 REDIRECT EXAMINATION

12 BY MR. THOMPSON:

13 Q. The statement that counsel was
14 referring to, that was a statement you gave six
15 years ago on November 8th, 2012, correct?

16 A. Yes.

17 MR. THOMPSON: That's all the questions I
18 have.

19 HEARING OFFICER WOOD: Anything else?

20 You may step down. Please take off
21 your mic.

22 (Witness Excused.)

23 (Witness was duly

24 sworn.)

1 JASON DEPTNER,
2 called as a witness herein, after having been
3 first duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. THOMPSON:

7 Q. Sir, could you state and spell your
8 name for the record.

9 A. My name is Jason Deptner. J-A-S-O-N.
10 D-E-P-T-N-E-R.

11 Q. And, Jason, how old are you?

12 A. 34.

13 Q. And where do you live, Jason?

14 A. I currently live in Ashburn, Virginia.

15 Q. You traveled here today at our
16 request?

17 A. I did.

18 Q. Are you employed, Jason?

19 A. Yes, currently work for the FBI.

20 Q. How long have you been an FBI agent?

21 A. Been an FBI agent for seven years.

22 Q. Could you tell us generally what you
23 do for the FBI, Jason?

24 A. I'm program manager, and I supervise

1 counter terrorism operations in headquarters.

2 Q. How long have you been an FBI agent?

3 A. Seven years.

4 Q. And were you law enforcement in any
5 other capacity prior to being an FBI agent?

6 A. Yes, I was.

7 Q. And in what capacity was that, Jason?

8 A. I was a border patrol agent.

9 Q. And can you describe -- where were you
10 stationed as a boarder patrol agent?

11 A. I was stationed in Sierra Blanca,
12 Texas, and it was about an hour or so east of
13 El Paso.

14 Q. And how long were you down at that
15 location or stationed there?

16 A. Almost three years.

17 Q. And could you -- you don't often get
18 border patrol officers. Can you describe for
19 us what your duties and responsibilities were
20 as a border patrol officer?

21 A. Sure. It was to enforce immigration
22 and customs laws, primarily focused on
23 indicting illegal immigrants and illegal
24 narcotics.

1 Q. And you understand -- I asked you to
2 come here today to provide testimony relative
3 to your relationship and knowledge of Brandon
4 Ternand, correct?

5 A. That's correct.

6 Q. When did you first meet Brandon
7 Ternand?

8 A. I first met Brandon when we were about
9 eight years old. First playing soccer together
10 through AYSO up in -- I want to say Hillside at
11 the time.

12 Q. Where were you living when you met
13 Brandon?

14 A. I was living in Westchester.

15 Q. And could you describe for us how your
16 relationship with Brandon developed after you
17 first met him?

18 A. Yeah. We played soccer as kids
19 growing up. And we became friends. We started
20 going to the same church together growing up.
21 Emmanuel Lutheran Church in Hillside. We went
22 to the same high school together as well.

23 Q. What high school did you attend?

24 A. Proviso West in Hillside.

1 Q. When you were growing up before you
2 attended Proviso West, how often would you and
3 Brandon interact?

4 A. At least once a week, several times a
5 week. We usually played soccer in the middle
6 of the week and saw each other in church on
7 Sundays.

8 Q. And by the time that you and Brandon
9 were entering high school, how would you
10 describe that -- your relationship in terms of
11 your friendship? Were you guys really good
12 friends, best friends? How would you describe
13 that?

14 A. I would describe Brandon as my best
15 friend in high school.

16 Q. And when you were growing up, you
17 shared a lot of intimate information back and
18 forth, correct?

19 A. Correct.

20 Q. And was any of that information
21 related to hopes and dreams?

22 A. Yes, it was.

23 Q. And did Brandon express to you early
24 in his life any particular type of dreams that

1 he had?

2 A. Yes, he did.

3 Q. And what was that?

4 A. It was in high school, I remember he
5 stated that he wanted to become a Chicago
6 police officer.

7 Q. Did you believe him?

8 A. I did.

9 Q. And you had a similar dream, I guess,
10 in a way, too?

11 A. That's correct.

12 Q. How would you describe, just if you
13 could briefly, the mix of students that you had
14 at Proviso West High School?

15 A. Well, I mean, it wasn't the best high
16 school. There were some bad elements. There
17 were gangs. There were people that came to
18 cause trouble, and there were people that, you
19 know, came to study and learn and were into
20 sports and other extracurricular activities at
21 the school.

22 Q. Did you continue with your enjoyment
23 of soccer into high school?

24 A. I did.

1 Q. Was that on an outside soccer team or
2 was that part of the Proviso West High School
3 soccer team?

4 A. It was through Proviso West through
5 the high school.

6 Q. And how long did you play on the
7 soccer team at Proviso West?

8 A. All four years.

9 Q. How about Brandon, was Brandon -- did
10 his enjoyment of soccer continue into high
11 school?

12 A. Yes, it did.

13 Q. Was Brandon on the high school soccer
14 team with you?

15 A. Yes, he was.

16 Q. How many years did Brandon play soccer
17 in high school?

18 A. All four years.

19 Q. And were you on the same team
20 together?

21 A. We were.

22 Q. How would you describe Brandon's speed
23 and agility?

24 A. He was the fastest person on our team.

1 Q. And was that continuous through his
2 four years on the high school team?

3 A. Yeah, it was. It was actually kind of
4 unusual, but he was our goalkeeper, and usually
5 the goalkeeper isn't the quickest guy, but he
6 was absolutely the quickest person on our team.

7 Q. How would you describe Brandon's
8 truthfulness from the time that you first met
9 him until the time that you were first a
10 freshman at Proviso West?

11 A. Throughout my life I've known Brandon,
12 I have never had an instance where I could ever
13 say he's been untruthful. I've always known
14 him to be very honest and very truthful in all
15 aspects of life.

16 Q. After you graduated from high school,
17 did you and Brandon go in your own directions?

18 A. Little bit. Yeah, he went to Triton
19 Community College. And I went to University of
20 Illinois Chicago. So we still kept in touch.
21 And we would still speak to each other, not as
22 regularly as when we were in high school.

23 Q. And after you graduated from college
24 and Brandon graduated from college, you both

1 began professional careers in law enforcement?

2 A. That's correct.

3 Q. And did you and Brandon stay in touch?

4 A. We did.

5 Q. Did you talk about law enforcement as
6 an FBI agent and law enforcement as a Chicago
7 police officer?

8 A. Yes, we did.

9 Q. Do you like your job, Jason?

10 A. I do.

11 Q. And when you talked to Brandon, did
12 you express your satisfaction and pleasure with
13 being an FBI agent?

14 A. Yes.

15 Q. Did Brandon share with you his
16 thoughts and feelings about being a Chicago
17 police officer?

18 A. He did.

19 Q. And what kinds of thoughts and
20 feelings did Brandon share with you about being
21 a Chicago police officer?

22 A. I generally got the feeling from him
23 that he enjoyed his job; that he enjoyed his
24 job and he enjoyed what he did.

1 Q. As part of that relationship, did you
2 become familiar with Brandon as a father and a
3 husband?

4 A. Yes, I did.

5 Q. Have you met Brandon's family?

6 A. Yes.

7 Q. How would you describe Brandon's
8 accountability and responsibility as a husband
9 and a father?

10 A. I'd say he's always been a very
11 attentive husband and father.

12 Q. You're aware of, generally, the reason
13 why we're here today, correct?

14 A. Yes, I am.

15 Q. And this incident happened in 2012,
16 six years ago, right?

17 A. Right.

18 Q. And you've stayed in touch with him
19 for the past six years?

20 A. That is correct.

21 Q. Similar to the type of relationship
22 you had with Brandon previously?

23 A. Yes.

24 Q. And how would you describe Brandon as

1 a friend and as a person from 2012 up to the
2 present, Jason?

3 A. He's always been a very stable person.
4 Always been very responsible. He's one of the
5 people that I trust the most in my life. He
6 was one of the groomsmen at my wedding. So I
7 trust Brandon completely. And I feel like he's
8 always had a very good head on his shoulders.

9 MR. THOMPSON: Thank you. That's all I
10 have, Madam Hearing Officer.

11 HEARING OFFICER WOOD: Thank you. Cross?

12 MR. FIEWEGER: No questions.

13 HEARING OFFICER WOOD: You may step down.
14 Please unlock your mic.

15 (Witness excused.)

16 MR. THOMPSON: Can we take five minutes, if
17 that's okay with counsel.

18 HEARING OFFICER WOOD: That's fine.

19 (Recess.)

20 (Witness was duly
21 sworn.)

22 SALVADOR LARA,
23 called as a witness herein, after having been
24 first duly sworn, was examined and testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MR. THOMPSON:

4 Q. Officer, could you state and spell
5 your name for the record, please.

6 A. Officer Salvador Lara.
7 S-A-L-V-A-D-O-R. L-A-R-A.

8 Q. You're currently employed by the
9 Chicago Police Department, correct?

10 A. Yes, I am.

11 Q. How long have you been a Chicago
12 police officer?

13 A. 12 years.

14 Q. And where are you assigned presently?

15 A. Presently assigned to the crime
16 prevention and information center.

17 Q. Directing your attention to November
18 8th of 2012. Where were you assigned?

19 A. I was assigned to the 3rd District.

20 Q. And were you a member of any unit in
21 the 3rd District?

22 A. Yes, one of the tactical teams.

23 Q. And now directing your attention
24 specifically to that date, November 8th, 2012.

1 Did you receive -- strike that.

2 Did you overhear radio
3 communication that resulted in you taking
4 police action?

5 A. Yes.

6 Q. What was the radio communication that
7 you recall hearing?

8 A. Members of my team, the 363 team, were
9 engaged in a foot chase.

10 Q. And where were you when you overheard
11 that radio transmission?

12 A. I was in the vicinity of the 3rd
13 District police station.

14 Q. Are you familiar with the area of
15 Marquette or 67th Street and Indiana and
16 Prairie?

17 A. Yes, I am.

18 Q. Approximately how far is that from the
19 3rd District?

20 A. If I had to guess, approximately
21 three, maybe three minutes.

22 Q. Are you familiar with the area of
23 Marquette and Indiana and Prairie?

24 A. Yes.

1 Q. When you heard that radio
2 communication, what did you do?

3 A. I proceeded to drive along with my
4 partner to the location or to the vicinity of
5 67th and Indiana.

6 Q. Did you activate your emergency
7 equipment?

8 A. We did, yes.

9 Q. Approximately how long did it take you
10 to get to the area of 67th and Indiana?

11 A. Approximately two or three minutes.

12 Q. And when you arrived at that area, the
13 officer-involved shooting had already occurred;
14 is that fair?

15 A. That's correct.

16 Q. Is it fair to say that you don't have
17 any specific knowledge relative to the events
18 that led to the officer-involved shooting?

19 A. That's correct.

20 Q. When you arrived at that location,
21 what did you do, Officer Lara?

22 A. First thing I did was I made sure the
23 officers were okay.

24 Q. And so when you say officers, what

1 officers are you referring to?

2 A. Members of my team.

3 Q. Who specifically?

4 A. Officer Razo, Officer Ternand, Officer
5 Bruno, Officer Sledge.

6 Q. And after you verified their safety,
7 what happened next?

8 A. I had an opportunity to speak to
9 Officer Razo and had a quick conversation with
10 him.

11 Q. And what was the substance of that
12 conversation?

13 A. In essence, he told me they had seen
14 the gentleman that I know now by Dakota Bright,
15 that he had ran from them with a gun.

16 Q. What did you do in response to that
17 information?

18 A. I learned the path of flight from
19 Officer Razo, and then I proceeded to look for
20 the gun.

21 Q. Do you remember your search, where it
22 started, where it ended, to the best of your
23 recollection?

24 A. Started approximately the north alley

1 of 67th or Marquette, east of Indiana, all
2 along the south, southeast area of 67th and
3 Indiana.

4 Q. Were you on foot?

5 A. Yes.

6 Q. Did you ultimately locate a weapon?

7 A. Yes.

8 Q. How long did it take you to locate the
9 weapon once you began your review of the flight
10 path?

11 A. I don't know. I don't recall exactly
12 how long.

13 Q. And do you recall where you located
14 the firearm?

15 A. Yes.

16 Q. Where was that?

17 A. It was in the rear yard of 6705 South
18 Indiana.

19 Q. And I'm going to ask Officer Lara, if
20 you could look at the top left-hand corner of
21 the board, what's marked as Exhibit 34.

22 A. Yes.

23 Q. Do you recognize what's depicted in
24 that photograph?

1 A. Yes, I do.

2 Q. What's depicted in that photograph?

3 A. It's the -- you can partially see the
4 backyard of 6705 South Indiana.

5 Q. And is that location depicted in
6 Exhibit 34, is that the yard where you
7 recovered the firearm?

8 A. Yes, it is.

9 Q. If I could direct your attention to
10 Exhibit 28.

11 (WHEREUPON, said
12 document was marked as
13 Respondent Exhibit No.
14 28 for Identification.)

15 A. Yes.

16 Q. Do you recognize what's depicted in
17 Exhibit 28?

18 A. Yes, I do.

19 Q. And what's depicted in Exhibit 28?

20 A. Again, that's the backyard of 6705
21 South Indiana.

22 Q. And was the firearm located somewhere
23 in the area -- strike that.

24 Is the area represented or

1 depicted in Exhibit 28, is that the area where
2 the weapon was located by you?

3 A. Yes, it is.

4 Q. Tell us about when you observed the
5 weapon for the first time. Was it something
6 that was obvious to you when you observed it?

7 A. Not right away.

8 Q. Why is that?

9 A. There were plenty of leaves, twigs, as
10 depicted in the pictures. When I first saw the
11 weapon, I was inside the backyard.

12 Q. If you can look at Exhibit No. 26. Do
13 you see what's depicted in that photograph?

14 (WHEREUPON, said
15 document was marked as
16 Respondent Exhibit No.
17 26 for Identification.)

18 A. Yes.

19 Q. What's depicted in that photograph?

20 A. That's the firearm I located that day.

21 Q. And if you can look at Exhibit No. 27,
22 do you know what's depicted in that photograph?

23 A. Yes, that's the same firearm.

24 Q. Is Exhibit 26, 27 and 28, is that a

1 true and accurate representation or depiction
2 of the area and the weapon that you recovered
3 that day?

4 A. Yes, to the best of my recollection.

5 Q. All right. Once you located the
6 weapon, what do you do next?

7 A. I immediately notify my supervisor.

8 Q. Did you receive some instructions from
9 your supervisor?

10 A. I was instructed to remain with the
11 firearm until I was relieved.

12 Q. And what does that mean remain with
13 the firearm?

14 A. Pretty much stay there with the
15 weapon. Make sure nobody touches the weapon.
16 Nobody removes the weapon. And again until
17 somebody comes to relieve me.

18 Q. And did you ever -- once you observed
19 that weapon, did you ever touch it or move it
20 in any manner?

21 A. No.

22 Q. And what's depicted in 26, that marker
23 A, do you see that?

24 A. Yes.

1 Q. Okay. You didn't place that marker,
2 that was somebody else, correct?

3 A. Correct.

4 Q. Were you ultimately relieved by
5 supervisors or other officers in the Chicago
6 Police Department from your guard position?

7 A. Yes, I was.

8 Q. Did you then leave?

9 A. Yes.

10 MR. THOMPSON: That's all the questions I
11 have.

12 HEARING OFFICER WOOD: Thank you. Any
13 cross?

14 CROSS-EXAMINATION

15 BY MS. WHALEY:

16 Q. Directing your attention to Exhibit
17 29, up on that board. Do you see that?

18 A. Yes.

19 Q. The suspect known as Dakota Bright,
20 his pants are -- it appears his pants are below
21 his waist, down, baggy, correct?

22 MR. THOMPSON: Madam Hearing Officer,
23 that's really beyond the scope of my
24 examination.

1 HEARING OFFICER WOOD: I'm not sure where
2 you're going.

3 BY MS. WHALEY:

4 Q. You testified you had experience
5 working in the 3rd District, correct?

6 A. I didn't testify, but, yes, I do.

7 Q. And in your experience in working in
8 that district, you've seen other -- you've seen
9 individuals who wear their pants below their
10 waist, correct?

11 A. I have, yes.

12 Q. That's actually a pretty common thing
13 that you see, correct?

14 A. I've seen it before.

15 MS. WHALEY: Thank you. That's it.

16 HEARING OFFICER WOOD: That's all? Any
17 redirect?

18 MR. THOMPSON: No, I don't have any further
19 questions. Thanks.

20 HEARING OFFICER WOOD: Thank you. Make
21 sure you take your mic off.

22 (Witness Excused.)

23 HEARING OFFICER WOOD: Off the record for a
24 second.

1 (Discussion off the
2 record.)

3 HEARING OFFICER WOOD: This is going to
4 conclude the hearing for today. We will resume
5 on May 18th at 10:00 a.m., and we are
6 anticipating both experts at a minimum and see
7 how far we get from there. Thank you, all.

8 (WHEREUPON, the proceedings
9 were adjourned at 4:00 p.m.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 MAUREEN A. WOODMAN, C.S.R., being first
5 duly sworn, says that she is a court reporter
6 doing business in the City of Chicago; that she
7 reported in shorthand the proceedings had at the
8 hearing of said cause; that the foregoing is a
9 true and correct transcript of her shorthand
10 notes, so taken as aforesaid, and contains all
11 the proceedings of said hearing.

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A handwritten signature in dark ink, appearing to read 'Maureen A. Woodman', is written over a solid horizontal line.

MAUREEN A. WOODMAN, CSR
License No. 084.002740

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